IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

NO. 10-60125

Summary Calendar

DOCTOR DAISY M. LACOUR,

Plaintiff-Appellant,

v.

DOCTOR ANNIE KILCREASE,
Superintendent;
CLAIBORNE COUNTY SCHOOL DISTRICT,

Defendants-Appellees

Appeal from the United States District Court
for the Southern District of Mississippi,
Vicksburg 5:08-CV-00315

Before JOLLY, WIENER, and ELROD,

Circuit Judges.

PER CURIAM:*

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*Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limit circumetances set forth in 5TH CIR.R. 47.5.4.

Plaintiff-Appellant Dr. Daisy M, Lacour, proceeding pro se, appeals the district court's dismissal of her claims of sex- based employment discrimination in violation of Title VII of the Civil Rights Act of 1964 when she was fired as principal of the Port Gibson High School during the term of her one-year contract and her state law claim of tortious interference with business or contractual relations. Dr. Lacour also appeals the district court's denial of her motion and supplemental motion to amend her complaint to add a claim for breach of contract.

We have now reviewed the entire record on appeal and have carefully considered the facts and law as presented therein as well as in the briefs of the parties and our independentresearch. As a result, we are convinced that the district court's Opinion and Order signed December 28, 2009 granting the Defendants Appellees' combined motion for summary judgment was providently granted and the court's Opinion and Order signed on January 28, 2010 denying Plaintiff-Appellant's motion and supplemental motion to amend her complaint was proper as well. Accordingly, for the reasons patiently set forth the detail by the district court in its said opinions and orders, the judgment of the district court are, in all respects , AFFIRMED. APPENDIX A-2

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT
OF MISSISSIPPI
WESTERN DIVISION

Dr. DAISY M. LACOUR PLAINTIFF

VERSUS CIVIL NO: 5:08cv315-DCB-JMR

CLAIBORNE COUNT SCHOOL DISTRICT
AND DR. ANNIE KILCREASE,
SUPERINTENT DEFENDANTS

OPINION AND ORDRR

This matter comes before the Court on defendants' Combined Motion for Summary Judgment {**docket entry no. 49**} and Supplement {**docket entry no. 61**} and plaintiff's motion for Summary Judgment {**docket entry no. 57**}. Having carefully considered said Motions, Responses, thereto, applicable statutory and case law, and being otherwise fully advised in the premises, the Court finds and order as follows:

I. Facts and Procedural History

Dr. Daisy M. Lacour {hereinafter "plaintiff" or "Dr. Lacour"} commenced this action with a pro-se Complaint filed against Dr. Annie Kilcrease and the Claiborne County

School District {hereinafter collectively "defendants"} on November 24. 2008.1 Therein , Dr. Lacour alleges that the defendants sexually discriminated against her in violation of Title VII of the Civil Rights Act of 1964. Specifically, she alleges that she was terminated from her position as principal of Port Gibson High School on April 5, 2007 because of her gender, female.

Dr. Lacour was hired as principal of Port Gibson High School for the 2006-2007 academic year. Following a sequence of events throughout the year in which the defendants allege that Dr. Lacour failed to adequately performed her responsibilities as principal, Dr. LaCour was terminated. The defendants allege that during her tenure as principal, gang violence, fighting, and drug escalated to a point that the safety of students and teachers was a major issue.

On July 24, 2007, the plaintiff filed charges with the U.S. Equal Employment Opportunity Commission {"EEOC"}. Following an investigation, the EEOC issued a determination on September 24, 2008, that Dr. Lacour

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1 Dr Lacour and Dr, Kilcrease are both females and were both employed by the Claiborne County School District during the events that gave rise to this suit.

had met all requirements to support a claim of gender discrimination. After conciliation efforts failed through the EEOC, the Department of Justice issued a Notice of Right to Sue to Dr. LaCour on October 27, 2008. Thereafter, she filed her pro-se Complaint against the defendants on November 24, 2008.

On January 20, 2009, Dr. Lacour retained the Honorable Louis Watson to represent her, and, through counsel, she filed and Amended Complaint on January 23, 2009.

Therein, she maintains her sexual discrimination claim and adds two additional state law claims: intentional infliction of emotional distress and tortious interference with business and /or contractual relations.

On March 31, 2009, the parties entered an Agreed Order of Dismissal as to the plaintiff's intentional infliction of emotional distress claim. Subsequently, Louis Watson and Dr. Lacour both filed separate motions which essentially asked the Court to reestablish Dr. Lacour as pro-se plaintiff. Magistrate Judge Roper granted both motions by text order on July 9, 2009, thereby allowing Louis Watson to withdraw and reestablishing the plaintiff as pro-se.

On June 12, 2009, before Mr. Watson

was release from the case, the plaintiff filed a Motion to Dismiss the Agree Order of Partial Dismissal as to the intentional infliction of emotional distress claim. According to Dr. Lacour, her attorney agreed to the partial dismissal without her consent and, therefore, it should be vacated. The Court denied this Motion on July 29, 2009, holding that even if she did not consent to the partial dismissal, the statute of limitations had run on that claim and it was time-barred.

On August 13, 2009, the defendants filed a Motion for Summary Judgment. First, the defendants contend that Dr. Lacour cannot make a out a prima facie case for gender discrimination because she was not qualified for the position she held. Alternatively, the defendants argue that if the plaintiff succeeds in presenting a prima facie case, her termination was justified by legitimate, nondiscriminatory reasons. In her Response, the plaintiff does not specifically address these arguments, Rather, Dr. Lacour asserts factual allegations in support of her claim that she was terminated based upon her gender and she relies upon the EEOC determination as evidence.

On August 20, 2009 the plaintiff filed a Cross-Motion for Summary Judgment. In her motion, she asserts a breach of contract clam

and re-alleges conclusory facts supporting her initial claims, specifically relying on the EEOC determination as evidence of the defendant's sexual discrimination. Dr. Lacour also asserts that the defendants violated Federal Rules of Civil Procedure 26, 34, and 37. She claims that the defendants did not provide answers to her discovery requests in violation of the Magistrate Judge's discovery order.

In their Response to plaintiff's Cross-Motion, the defendants' argues that Dr. Lacour breach of contract claim is without merit because she never asserted this claim in her Complaint or Amended Complaint. Additionally, the defendants' argue that it is the plaintiff's burden to sufficiently state facts in support of her claim, which she failed to prove, and, in the alternative, the defendants have provided sufficient evidence that her

termination was for legitimate, non-discriminatory reasons, Both of these Motions are now before the Court.

II. Summary Judgment Standard

Summary judgment is apposite "if the pleadings, depositions, answers to interrogatories, admission on file, together with the affidavits, if any, show that there is no genuine

issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P 56 (c). 2 The party moving for summary judgment bears the initial responsibility of apprising the district court of the basis for its motion and the parts of the record which indicate the absence of a genuine issue of material fact. **Celotex Corp. v. Catrett,** 477 U.S. 317, 323, (1986).

"Once the moving party presents the district court with a properly supported summary judgment motion, the burden shifts to the non-moving party to show that summary judgment is inappropriate." **Morris v. Covan World Wide Moving, Inc.**, 144 F 3d 377, 380 (5th Cir. 1998). "The evidence of the non-movant is to be believed, and all justifiable inferences are to be drawn in his favor." **Anderson v. Liberty Lobby**, Inc., 477 U.S.

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2 "A fact is 'material' if its resolution in favor of one party might affect the outcome of the lawsuit under governing law. An issue is 'genuine' if the evidence is sufficient for a reasonable jury to return a verdict for the non-moving party." Ginsberg 1985 Real Estate Partnership v. Cadle Co., 39 F 3d 528, 531 (5th Cir. 1994) (Citations omitted).

242, 255 (1986). But the non-movant must "do more than simply show that there is some metaphysical doubt as to the material facts." Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986). Moreover, "{t} he mere existence of a scintilla of evidence is insufficient to defeat a properly supported motion for summary judgment." Anderson, 477 U.S. at 252. The non-movant must instead come forward with specific facts showing that there is a genuine issue for trial," Fed. R. Civ. P. 56 (e). Summary judgment is properly rendered when the non-movant "fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trail." Celotex Corp., 477 U.S. at 322.

III. Analysis

A. Defendants' Combine Motion for Summary Judgment

1. Title VII Gender Discrimination Claim

Title VII proscribes an employer from discharging or otherwise discriminating against an individual based upon that person's race, color, sex, religion or national origin. 42 U.S.C. {2000e-2(a)(1) (2006). To make a prima facie case for gender discrimination the

plaintiff must prove by a preponderance of the evidence that: "(1) she is a member of a protected class; (2) she was qualified for the position she held; (3) she was terminated; and (4) after termination, the employer hired a person not of the plaintiff's protected class." **Burnett v. Thompson**, 31 Fed. Appx. 839 2002 WL 261526, *2 (5th Cir. 2002) citing **McDonnell Douglass Corp. v. Green**, 411 U.S. 792, 802, 93 S. Ct. 1817 (1973)). If the Plaintiff is able to establish a prima facie case, the burden of persuasion then shifts to the defendant employer "to articulate some legitimate, nondiscriminatory reason for the employee's termination. **Grimes v. Texas Dept. of Mental Health and Mental Retardation**, 102 F. 3d 137, 140 (5th Cir. 1996) (citing **McDonnell Douglas**, 411 U.S. at 801.03). Lastly, if "the defendant is able to carry this burden, the, the presumption of discrimination dissipates and the plaintiff must then have an opportunity to prove by a preponderance of the evidence that the legitimate reasons offer by the defendant were not its true reasons, but were a pretext for discrimination." **Texas Dept. of Comm. Affairs v. Burdine,** 450 U.S. 248, 253 (1981).

A plaintiff may prove discriminatory intent with direct or circumstantial evidence. **Wheeler v. BL Dev. Corp.**,

415 F. 3d 399, 405 (5th Cir. 2005) "A plaintiff may establish circumstantial evidence of intentional discrimination by demonstrating that a defendant's articulated nondiscriminatory reason was pretextual." Grimes, 102 F. 3d at 140.

In the case at bar the plaintiff has made out a prima facie case. The defendants do not dispute that Dr. Lacour is a member of a protected class, that she was terminated, or that she was replaced by a male. Rather, the defendants contend that Dr. LaCour was not qualified for the position she held. As Evidence, the defendants only argue that she no experience with high school students. Yet, the plaintiff's resume clearly reflects that she possessed a bachelor's degree in sociology, a master's in guidance and counseling; a doctor of education degree in early childhood education; elementary and administrative certifications; and professional experience as an associate professor at the collegiate level and as director of student Programs at Hinds Community College, Tougaloo College, and Jackson State University. For these reasons, the Court finds that a prima facie case of gender discrimination does exist.

The defendants offer legitimate, non–discriminatory reasons for Dr. Lacour's

termination. Dr. Lacour's termination letter states that she was released pursuant to Miss. Code Ann. { 37-9-59, because her continue presence on school premises interferes with and/ or cause a disruption of normal school operations and a threat to the safety or general welfare of the students. Specifically, the defendants alleges that gang violence and drug use escalated during Dr. Lacour's tenure; that she exacted inequitable and unfair punishment towards student often overriding the recommendations of the administrative assistant who was in charge of discipline; that high school test scores drop including a drop in the schools standing from a level 4 school to a level 2 school; that she scheduled school dances during scheduled times for tutoring students for area testing; and, that she allowed two students to leave campus without properly signing out and they subsequently arrested the same day for fighting at a local convenience store. As evidence of these reasons for her termination, the defendants provided documentary evidence including:

1) Seven (7) letters addressed to Dr Lacour from the defendant, Dr. Annie Kilcrease which discussed disciplinary

problems at the high school, "out of control" students, complaints reported to Dr. Kilcrease form students and teachers regarding safety issues at the school, the failure of Dr. Lacour to perform her leadership responsibilities as principal, orders to discontinue the scheduling of school dances during hours scheduled for students tutoring, and the release of students from campus without following proper sign-out procedures, These letters were dated between the months of September 2006 through April 2007. Also, Dr. Kilcrease offered her personal assistance to Dr. Lacour in all of the letters, and also additional training and professional development opportunities to Dr. Lacour upon her request.

2) A hand-written letter from a student at the high school addressed to Dr, Kilcrease stating that the student was scared to returned to the school because of fighting and violence that was occurring on campus.

3) A police report regarding the arrest of two students for fighting off-campus after they released from school early without proper authorization,

4) Letters from a teacher and the in-school suspension coordinator detailing complaints about Dr. Lacour failure to properly discipline students.

5) The affidavit of Dr. Kilcrease that provided details of all of the incidents mention above and other incidents of fighting and lack of leadership at the school.

This evidence clearly documents legitimate, nondiscriminatory reasons for the plaintiff's termination. Therefore, the Court must now determine if the plaintiff has presented any evidence that would indicates that the Defendants' nondiscriminatory reasons were

pretextual. 3

After a thorough review of the evidence presented, the Court finds that as a matter of law no "actual proof of {gender} discrimination " exists nor does the evidence presented allow for an "inference of pretext." **Balazor v. Holmes**, 162 F. 3d 368, 373 (5th Cir. 1998). The plaintiff heavily relies upon the EEOC's determination that she met the requirements to bring a discrimination claim as evidence of actual discrimination. However, the EEOC's determination is not dispositive in a later gender discrimination suit. **See Price v. Federal Exp. Corp**., 283 F. 3d715, 725 (5th Cir 2002) (stating that "EEOC's findings of racial discrimination are not dispositive in later

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3 In addition to the evidence discussed, the defendants also produced evidence that the plaintiff was paid higher salary than any principal that preceded her. Dr. Lacour was also provided a home by the school district, which was remolded to the plaintiff's specification and no rent or utility fees were charged to her . Moreover, the defendants assert that nearly 80% of the Claiborne County School District employees, including Dr. Annie Kilcrease are female. Although these facts are not pertinent to the gender discrimination analysis herein, the Court does find they are relevant as to whether the defendants harbored any discriminatory intent towards the plaintiff.

racial discrimination suit); cf.. Smith v. Universal Services, Inc., 454 F. 2d 154, 157 (5th Cir. 1972) (stating that "civil litigation at the district court level clearly takes on the character of a trail de novo, completely separate from the actions of the EEOC."). In fact, the only evidence the plaintiff presents as to the gender discrimination are findings make by the EEOC that (1) male preceded Dr. Lacour as principal of Port Gibson High school and a male was hired to replace her as principal; and, (2) she was not provided with an assistant principal but two assistant principals were hired for the 2007-2008 school year to assist her successor.

Although an element for consideration regarding her prima case, the fact that a male preceded and male succeeded her is not evidence that the defendants' nondiscriminatory reasons for terminating Dr. Lacour were pretextual. Furthermore, the defendants presented evidence that Dr. Lacour had an administrative assistance who performed all responsibilities generally assigned to an assistant principal. Dr, Lacour argues that her termination could not be based on her

failure to properly discipline students because that responsibility belong to the administrative assistant. However, the evidence shows that Dr. Lacour was terminated, among other reasons for disregarding disciplinary recommendation made by the administrative assistant and, in some cases, reversing his decisions and issuing lesser penalties which inevitably created an unsafe environment at the school in the opinion of the school officials.

Taken together, no discriminatory intent can be inferred from that reasons provided for Dr. Lacour termination as principal of Port Gibson High School. Because the plaintiff has failed to provide evidence that would allow a rational factfinder to make a reasonable inference that gender was a determinative reason for defendants' employment decision, the Court finds the defendants' Motion for Summary Judgment as to the gender claim to well-taken.

2. Tortious interference with Business and/or Contractual Relations

A claim alleging tortious interference with business and/or contractual relations may "encompass interference with a prospective relationship as well as an existing one." **Hubbard Chevrolet Co. v. General Mortors Corp.**, 682 F. Supp. 873, 877 (S.D. Miss. 1987);

Merlite Land, Sea & Sky, Inc v. Palm Beach Inv. Properties, Inc., 426 F. 2d 495, 498 (5th Cir. 1970). "Tortious interference with {a} contract occurs when one causes another to breach a contract with a third person" whereas "{t)ortious interference with business relations.... occurs when one unlawful diverts prospective customers away from another's business. **McBride Consulting Service, LLC v. Waste Management of Miss., Inc**., 949 So 2d 52, 55 (Miss. App. 2006). In order to prove a claim for either tort, the plaintiff must prove that: (1) The act were intentional; (2) the acts were calculated to cause damages to the plaintiffs in their lawful business; (3) the acts were done with the unlawful purpose of causing damages and loss, with the unlawful purpose of causing damage and loss, without right or justifiable cause on the part of the defendant (which constitutes malice); and (4) actual damage and loss resulted. **Biglane v. Under the Hill Corp**., 949 So 2d 9, 16 (Miss. 2007). All factors must be met or the claim fails. **Id.**

In the case at bar, it is clear from the facts that the defendants have not interfered with prospective business and/or contractual relations of the plaintiff. Although Dr. Lacour

alleges in her Cross-Motion for Summary Judgment that her termination resulted in her inability to find suitable employment resulting in financial stress on her family, these allegations alone do not present facts sufficient to support a claim for tortious interference with business relations, No prospective business relations were present at the time of the plaintiff's termination, and, furthermore, the defendants have presented sufficient reasons that provide justifiable cause for their actions. The facts of this case, as previously discussed, show that Dr, Lacour was terminated for what her employer perceived to be inadequate performance of her responsibilities as principal of Port Gibson High School. Accordingly, the Court finds justifiable cause exist for the defendants' actions and the defendants' summary judgment motion is granted.

B. Plaintiff's Cross Motion for Summary Judgment

Because the court finds that the defendants Motion for Summary Judgment is well-taken, the plaintiff's Cross-Motion for Summary is moot. Nonetheless, in her motion Dr. Lacour asserts a new breach of contract claim against the defendants. Therefore, the

Court construes the plaintiff's Cross-Motion as a motion to Amend the Complaint to add a breach of contract claim. It is obvious to the Court that Dr. Lacour is under the impression that her tortious interference claim also includes a breach of contract claim. However, these are two separated and distinguishable claims, and the plaintiff did not plead a breach of contract claim in her Complaint or Amended Complaint. For these reasons, the Court orders the defendants to provide a response to the plaintiff's Motion to Amend the Complaint to add a breach of contract claim and also respond to the merits of that claim. The Court will hold in abeyance its ruling on this claim until both parties have had the opportunity to brief their respective positions.

As to the plaintiff's allegations that the defendants have violated Federal Rules of Civil Procedure 26, 34, and 37, the court finds those allegation to be without merit. The record clearly shows that the defendants provided Dr. Lacour with responses to her request for production and interrogatories on August 17, 2009 and supplements to those responses on August 19, 2009. As a result, the defendants did not violate the federal rules or the Magistrate Judge's discovery order.

IV. Conclusion and Order

As stated previously, the Court finds that the defendant's motion or Summary Judgment is well-taken. As a result, the only matter now before the Court is the plaintiff's Motion to Amend the Complaint to add breach of contract claim. The Court will hold in abeyances its ruling on that claim both parties have respond to the Motion to Amend.

Accordingly,

IT IS HEREBY ORDER that the defendants' Combined Motion for Summary Judgment **(docket entry no. 49)** and Supplement **(docket entry no. 61)** is **GRANTED**.

IT IS FURTHER ORDER that the plaintiff's Cross-Motion for Summary Judgment **(docket entry no. 57)** is **MOOT.**

IT IS FURTHER ORDER that the defendants provided a response to the Court regarding not only the plaintiff's Motion to Amend the Complaint to add a breach of contract claim, but also to the merits of the breach of contract claim.

SO ORDERED this 28th day of December 2009.

s/David Bramilette

UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT
OF MISSISSIPPI
WESTERN DIVISION

Dr. DAISY M. LACOUR PLAINTIFF

VERSUS CIVIL NO: 5:08cv315-DCB-JMR

CLAIBORNE COUNT SCHOOL DISTRICT
AND DR. ANNIE KILCREASE,
SUPERINTENT DEFENDANTS

OPINION AND ORDRR

This cause come before the Court on the Plaintiff's Motion to Amend Complaint {docket entry no 69} and Supplemental Motion to Amend Complaint {docket entry no 72}. Having carefully considered the Motions, Responses, applicable statutory and case law, and being otherwise fully advised in the premises, the Court finds order as follows:

I. FACTS AND PROCEDUARAL HISTORY

Dr. Daisy Lacour (hereinafter "plaintiff' or "Dr. Lacour") was hired as principal of Port Gibson High School on July 10, 2006 for the 2006-2007 school year. However, after an escalation of gang violence, fighting, and drug use

at the high school during her first year, she was terminated from her position as principal on April 5, 2007 before the expiration of her contract, The termination letter sent by Dr. Annie Kilcrease, Superintendent of Education for Claiborne County School District, stated that Dr. Lacour was terminated "pursuant to MS Code 37-9-59, due to your continued presence on school premises interferes with and/or causes a disruption to the normal school operations and a treat to the safety or general welfare of students." On April 10, 2007 Dr.

Lacour requested a hearing before the school board pursuant to Mississippi Code { 37-9-59. Dr. Lacou's initial hearing was schedule for July 9, 2007. However, due to scheduling conflicts, the hearing did not occur until February 21, 2008. Dr. Lacour was represented b y counsel at the hearing. On October 1, 2008 the school board affirmed Dr. Lacour termination and notified her by letter on October 6, 2008 of the decision.

Following the school board decision, Dr. Lacour appeal to the Chancery Court of

Claiborne Count on October 17, 2008 pursuant to Miss. Code Ann. {37-9-59 and 37-9-111 et seq. On December 22, 2008, the Chancellor dismissed her appeal holding that the chancery

court did not have original jurisdiction because no bond was executed as required by {37-9-113 and the "Plaintiff elected to file this action as an original bill of complaint" rather than as an appeal. Dr. Lacour did not appeal the chancery court's decision to the Mississippi Supreme Court as provided by law under { 37-9-113.

While Dr. Lacour was awaiting her school board hearing, she filed charges with the U.S. Equal Employment Commission {EEOC} on July 24, 2007 alleging that she had been discriminated against in violation of Title VII of the Civil Rights Act of 1964, because of her sex, female, in that she was subjected to disparate treatment and terminated from her position as principal. On September 24, 2008, while her appeal was pending with the chancery court, the EEOC determined that Dr. Lacour had met all the requirement to proceed with Title VII case. Subsequently, the Department of Justice notified Dr. Lacour by letter on October 27, 2008, that it would not file suit against Claiborne County School District and that she had ninety (90) days to file suit in the appropriate court. Thereafter, on November 24, 2008, Dr. Lacour filed a complaint in the

Southern District of Mississippi against Claiborne County School District and Dr. Annie Kilcrease, Superintendent, (hereinafter "defendants") alleging gender discrimination in violation of Title VII as well as other state law claims.

In August 2009, the parties filed Cross-Motions for Summary Judgment. On December 30, 2009, this Court granted summary judgment as to all claims in favor of the defendants. However, the Court also determined that in her briefs, the plaintiff was asserting a breach of contract claim against the defendants despite the fact that she had not asserted that claim in her complaint or amended complaint. For this reason, and because the plaintiff is pro-se, the Court construed the plaintiff's summary judgment motion as a motion to amend the complaint to add breach of contract claim. The court requested that the plaintiff file a motion to amend the complaint and also file a brief regarding the merits of a breach of contract claim, additionally, the Court requested that the defendants file responses. The motions and all responses

thereto are now before the Court.

II. ANALYSIS

The issue before the Court is whether the plaintiff may amend her complaint to add a state law breach of contract claim. The

Plaintiff argues that pursuant to Mississippi Code { 37-9-59 she is owed compensation for the time period between her termination, April 5, 2007. and the date of her hearing before the school board, February 21, 2008. As support to her argument, the plaintiff relies upon { 37-9-59, which stats in part;

> In the event that a license employee is immediately relieved of duties pending a hearing, as provided in this section, said employee shall be entitled to
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> compensation for a period up to and
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> including the date that the initial
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> hearing is set by the school board, in the event that there is a request for such a hearing by the employee.

The defendants do not specifically address the plaintiff's argument. Rather, they assert two arguments against allowing the breach of contract claim. First, they argue that this Court lacks jurisdiction over the claim because

Mississippi Code {{ 37-9-59 and 37-9-113 confer exclusive jurisdiction to chancery courts over matters involving school employees who have been aggrieved by the final decision of the school board. Second, the defendants claim that the doctrines of res judicata and/or collateral estoppel bar the breach of contract claim because the Chancery Court of Claiborne County, which had exclusive jurisdiction over the plaintiff's claims against the school board, dismissed the plaintiff's appeal on December 22, 2008. The defendants also ague that the motion to amend should be denied as to Dr Annie Kilcrease because she was not the employer of Dr. Lacour and was only acting as an agent of Claiborne County School District when she signed Dr. Lacour's employment contract. Therefore, the defendants argue that there is no available remedy against Dr. Kilcrease.

The statutes at issue in this case are Miss. Code Ann. {{ 37-9-59, 37-9-111-113 (1986) These statues expressly provide the administrative remedies available to public school official in Mississippi who is aggrieved

with his or her termination of employment.1

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1 Miss. Code Ann. { 37-9-59 states: "For incompetence, neglect of duty immoral conduct, intemperance, brutal treatment of a pupil or other good cause the superintendent of schools may dismiss or suspend any licensed employee in any school district....In the poses a potential threat or danger to the health, safety or general welfare of the student, or , in the discretion of the superintendent, may interfere with or cause a disruption of normal school operations, the superintendent may immediately release said employee of all duties pending a hearing if one is requested by employee.....The school board, upon a request for a hearing by the person so suspended or removed shall set a date, time and place for such a hearing which shall not be sooner than five (5) days nor later than thirty (30) days from the date of the request. The procedure for such hearing shall be as prescribed for hearing before the board or hearing officer in Section 37-9-111. From the decision made at said hearing, any licensed employee shall be allowed an appeal to the chancery court in the same manner as appeals are authorized in Section 37-9-113. Any party aggrieved by the chancery court may appeal to the Mississippi Supreme Court as provided by law. In the event that a licensed employeed is immediately relieved of duties pending a hearing, as provided in this section, said employee shall be entitle to compensation for a period up to and including the date that the initial hearing is set by the school board, in the event that there is a request for such a hearing by the employee....."

In short, {{ 37-9-11-113 specifically provide the

In the instant case, Dr. Lacour did not exhaust her administrative remedies under state law. She chose to file her Title VII action in federal court, plead other state law cause of action, and forego any further state appeals. This Court had proper jurisdiction over her Title VII claim pursuant to 28 U.S.C. {1331. **See Brantley v. M. F. Surles,** 718 F 2d 1354, 1359-60 {5th Cir. 1983) holding that the exhaustion of available state administrative remedies is not prerequisites for filing a federal claim and res judicata does not apply to the federal claim if the merits of the claim are not addressed in a prior state court action). However, as stated previously, the Title VII claim as well as Dr. Lacour's other state law claims were dismissed on December 30, 2009. Although her failure to exhaust administrative remedies does not, in itself, preclude this court from asserting jurisdiction over her claims, it does present a complex issue of state law for this Court.

Dr. LaCour is correct that the statutes affords her the right to compensation for the time period between termination and the

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procedures for the school board hearing, appealing to chancery court, and appealing to the Mississippi State Supreme Court.

school board hearing. Nonetheless, the same statute that affords her relief {39-9-59, also requires an administrative procedure to obtain that relief. In **Young v. Jefferson Davis County School Board,** 672 So 2d 1219, 1221 (Miss. 1996), the Mississippi Court held that although the school board had authority to discharge a teacher, the teacher was entitle to compensation during the period she awaited a hearing before the school board." In **Young**, the Mississippi Supreme Court remanded the case to the chancery court for a determination of the amount of compensation plus interest owed to Young for the six month period between termination and hearing, **Id**. While the **Young** decision stands for the proposition that Dr. Lacour has a valid claim, the procedural posture of that case and the instant case are completely different. In **Young** the plaintiff appealed the school board's decision to chancery court's , which upheld Young's termination, and then appealed the chancery court's decision to the Mississippi Supreme Court. **Id.** In the instant case, Dr. Lacour did not appeal to the Mississippi Supreme Court, but rather sought relief in federal court. Therefore, the specific issue this Court must decide is whether the plaintiff statutorily barred under state law from asserting a breach of contract

claim under {37-9-59 against the defendants because she did not exhaust her appeals as required by Mississippi law.

Under 28 U.S.C. {1367 (a), "in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to the claim in the action within such original jurisdiction that they form part o f the same case or controversy under Article III of the United States Constitution." **City of Chicago V. International College of Surgeons**, 522 U.S. 156 (1997). However,"{s} ubsection (c) allows district courts to decline to exercise supplemental jurisdiction in certain situations." **Raygo v. Regents of the University of Minnesota,** 534 U.S. 533, 540 (2002). The district court may decline jurisdiction when

(1) the claim raises a novel complex issue of state law,

(2) the claim substantially predominates over the claim over which the district court has original jurisdiction,

(3) the district court has dismissed all claims which it has original jurisdiction,

or

(4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction.

28 U.S.C. { 1367 (c). In determining whether to exercise supplemental jurisdiction under {1367 (c), the district court should also consider the notions of "judicial economy, convenience, fairness and comity." **Mendoza v. Murphy**, 532 F. 3d 32, 346 (5th Cir. 2008). "These factors are to be considered on a case-by-case basis, and no single factor is dispositive." **Id.**

In the case at bar, factors two and three under {1367 (c) weigh in favor of declining jurisdiction because the Court has dismissed the federal claim. Factor one under {1367 (c) also weighs in favor of declining jurisdiction. Miss Code 37-9-59, 37-9-111-113 set forth an administrative remedy for appeals of school board decisions. The compensation issue raise here by Dr. Lacour under {37-9-59 has only been discussed in one Mississippi case. **See Young**, 672 So. 2d at 1219. However the Mississippi Supreme Court did not address in that case whether a plaintiff would be statutorily barred from asserting a claim under {37-9-59 if the plaintiff did not exhaust the administrative remedies

provided in the statute. As a result,

Mississippi Courts have yet to address state law issue now before this Court. **See Dixon v. Ford Motor Credit Co.**, 2001 WL 422726 at *3 (5th Cir. 2001) (unpublished) (stating that

failure of state court to interpret relevant state statutory provision is a relevant factor is declining to exercise supplemental jurisdiction).

In weighing the consideration of judicial economy and convenience, the Court is of the opinion that these factors favor a retention of federal jurisdiction. However, the notions of fairness and comity strongly weigh in favor of dismissal. Because the only issue remaining with this court is technical issue of state law, fairness and comity demand that the appropriate court for resolution is a state court. Also, no trail has taken place. Therefore, dismissal would not prejudice the parties. The plaintiff may refile her suit in state chancery court.2

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2 Mississippi has a three year statute of limitations on breach of contract claims for written contracts. **Levens v. Campell**, 733 So 2d 753, 758 (Miss. 1999) (citing Miss. Code Ann. 15-1-29 (1995) Therefore, the limitations period for Dr. Lacour's possible claim does not expire until April 5, 2010

Any discovery that been completed in this suit may be utilized there as well. **Waste System, Inc. v. Clean Land Air Water Corp.,** 683 F. 2d 927, 931 (5th Cir. 1982). For the foregoing reasons the Court finds that the majority of factors in { 1367 (c) as well as the other consideration of fairness and comity weigh in favor of declining supplemental jurisdiction. The state court is the proper venue for resolution of the remaining issues in this case. Therefore, this case is dismissed without prejudice. Inasmuch as this court declines to exercise supplemental jurisdiction over the remaining claim, the defendants' arguments regarding the merits of the claim and the application of res judicata and/or collateral estoppel need not be addressed.

III. CONCLUSION

Accordingly,

IT IS HEREBY ORDERED that the Plaintiff's Motion to Amend Complaint {docket entry no 69} and Supplemental Motion to Amend Complaint {docket no. 72} are **DENIED.**

IT IS FURTHER ORDERED that this case is dismissed without prejudice.

SO ORDERED this day the 28 day of January 2010.

s/David Bramlette

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT
OF MISSISSIPPI
WESTERN DIVISION

Dr. DAISY M. LACOUR PLAINTIFF

VERSUS CIVIL NO: 5:08cv315-DCB-JMR

CLAIBORNE COUNT SCHOOL DISTRICT
AND DR. ANNIE KILCREASE,
SUPERINTENT DEFENDANTS

JUDGEMENT OF DISMISSAL

This cause having come before the Court on the plaintiff's Motion to Amend Complaint, and the Court having denied the motion as the plaintiff's claim and decline to assert supplemental jurisdiction over such claim, accordingly:

IT IS HEREBYORDERED AND ADJUGED that the case is **DISMISSED WITHOUT PREJUCICE**

SO ORDER AND ADJUDGED, this the 28th of January 2010.

s/David Bramlette

UNITED STATES DISTRICT JUDGE

APPENDIX D

IN THE CHANCERY COURT OF
CLAIBORNE COUNTY MISSISSIPPI

DR. DAISY M. LACOUR PLAINTIFF

VERSUS CAUSE NUMBER 008-08189N

CLAIBORNE COUNT SCHOOL DISTRICT
BAORD AND DR. ANNIE KILCREASE,
SUPERINTENDENT DEFENDANT

ORDER GRANTING MOTION TO
DISMISS

THIS CAUSE came to be hear on the Motion for Default Judgment Against Defendant Claiborne Count School District Board and Dr. Annie Kilcrase, Superintendent filed by Plaintiff, Dr. Daisy M. LaCour and the

Motion to Dismiss filed by the Defendants, Claiborne County Board of Education and Dr. Annie Kilcrease, Superintendent, and the Court having considered all the pleadings and being otherwise fully informed in the premises, finds as follows, to-wit:

1.

Through her attorney at the time,

Plaintiff received notification on October 6, 2008 that the Claiborne County Board of Education had upheld the termination, by Superintendent Kilcrease of Plaintiff's employment as Principal in the Claiborne County School

District. On October 17, 2008, Plaintiff, acting pro se, filed in this Court a document entitled "Appeal of Decision From Hearing Before the Claiborne County School District Board" and which requested loss of wages, compensatory and punitive damages, among other things. Plaintiff caused a summon to issued to the Defendants on October 17, 2008 and thereafter filed motion for default judgment which alleged a failure on the part of the Defendants to file an answer within thirty (30) days. An application for entry of default was filed with the Clerk of this Court an entry of default was

enter against the Defendants on December 1, 2008. On that date Defendants filed a motion to dismiss and both Plaintiff's and Defendants motion were heard.

2.

Section 37-9-113 of the Mississippi Code

Annotated (1972) provides as follows"

> (1) Any employee aggrieved by a final decision of the school board is entitled to judicial review thereof, as hereinafter provided.
>
> (2) An appeal may be taken by such
>
> employee to the chancery court of the judicial district in which the school
>
> district is located, by filing a petition with the clerk of the court and executing and filing bond payable to the school board with sufficient sureties, in the penalty of not less than two hundred ($200.00), conditioned upon payment of all of the costs of appeal, within twenty (20) days of the receipt of final decision of the board.

The Court notes that the record in the instant case does not reflect that any bond was executed or filed within the time allotted by the above referenced statue or any time

thereafter.

3.

Under the circumstance of this case the only jurisdiction this Court could have is an

appellate review of the record made before the school board. An examination of the record herein clearly herein clearly establishes that the Plaintiff elected to file this action as an original bill of complaint. Therefore, this Court has no original jurisdiction to hear this cause and must grant motion to dismiss. Cox v. Thomas, 403 So. 2d 135 (Miss. 1981).

IT IS, THEREFORE, ORDER AND ADJUGED that the Motion to Dismiss filed by the Defendants, Claiborne County Board of Education and Dr. Annie Kilcreasem Superintendent of Education, is hereby granted. Accordingly, the Motion for Default Judgment filed by Plaintiff, Dr. Daisy M. LaCour, is denied and cost herein are assessed to the Plaintiff.

SO ORDER, ADJUDGED AND DECREED, this the 22nd day of December 2008.

s/ Kennie E. Middleton,

KENNIE E. MIDDLETON, CHANCELLOR

CLAIBORNE COUNTY PUBLIC SCHOOL DISTRICT JOB DESCRIPTION

TITLE: Principal

QUALIFICATIONS: Appropriate administrative certificate as required by the Mississippi State Code

REPORTS TO: The superintendent, assistant superintendent or superintendent 's designee

JOB GOAL: To use leadership,

supervisory, and administrative skills so as to promote the educational development of each student.

PERFORMANCE RESPONSIBLITIS:

1. Serves as instructional leader for his/her building,
2. Works cooperatively with the entire staff providing leadership, supervision, and staff development for the best interest of the children.
3. Assumes responsibility for class assignment of the students and makes changes thereafter only when it is in the best interest of the child.

4. Demonstrates concern in providing for the health and welfare of the students, teacher and staff.

5. Assumes responsibility for evaluation, recommendation and assignment of teachers and staff within his/her building.

6. Assumes responsibility for classification promotion and retention of students within his/her building.

7. Provides ongoing appraisal and evaluation of the instructional program.

8. Evaluates and appraises each teacher through actual classroom visitation and observations. During the school year evaluation of each teacher in writing and on a prescribed form shall be make periodically by the principal.

9. Overseer the attendance and conduct of the students.

10. Assumes Responsibility for the following: nuclear drills, fire drills, severe weather drills, school enterprises, student activities, teachers meetings, and school exhibits.

11. Makes regular inspection of the physical facilities under his/her supervision and submits an appropriate written report to the

superintendent.

12. Assumes responsibility for the proper care and accounting of all equipment textbooks and supplies assigned to his/her building.

13. Assumes responsibility for insuring that all activities are conducted appropriately within his/her school to insure a positive school climate.

14. Assumes responsibility for all administrative details relating to custodial and non-instructional personnel assigned to the building.

15. Keeps the superintendent and/or designee informed continuously of the total school program within his/her assigned building.

16. Delegates appropriate activities to staff members as necessary.

17. Recognizes accomplishments and achievements of students and staff.

18. Maintains cooperative liaison with other school in the district.

19. Assumes responsibility for the interpretation of the school program to the community and enlists the participation of the community in school activities.

20. Maintains active relationship with students, parents and community.

21. Records, maintains and secure accurate records as required by federal, state and local officials.

22. Assumes responsibility for including the school's total need in planning the budget, requisition of equipment and supplies within the funds allocated.

23. Actively engaged in professional organization workshop and other in-service activities in order to promote professional growth and render greater service.

TERMS OF EMPLOYMENTNT.

(SENTENCE HAS BEEN WHITEN OUT) Salary to be established by the superintendent and approved by the Board.

EVALUATION: Performance of this job will be evaluated annually in accordance with the provision of the Board policy on evaluation of Administrative Personnel.

PRINCIPAL'S EXPECTIONS

1. Open and close school daily.
2. Monitor school buses' arrival and departure.

3. Monitor building and supervise faculty and staff.
4. Attend administrative meetings.
5. Conduct parent conferences.
6. Assist, observe and have conference with teacher's on the Program Effective Teaching (PET) concepts i.e. Bloom's Taxonomy and teacher expectations.
7. Supervises and monitor Instructional Management Plan.
8. Read and follow appropriate documents, policies and laws related to school operation.
9. Prepare school reports seven (7) days prior to due date and or in a timely manner.
10. Evaluate and observe faculty and staff performance.
11. Promote positive public relations in the community.
12. Monitor extra-curricula activities and/or activities approved by the School Board.
13. Professionalism
14. Accountability.
15. Report all fess collected to central office.

MISSISSIPP

By virtue of the Authority Vested in the State Board of Education of Mississippi by Section 37-9-9 Regular Session Laws of 1997 and Section 37-31-205 (1) (e) (2) Mississippi Code of 1972 as amended we hereby issue this

Educator License

To

Soc. Sec. No	Daisy M. LaCour	License No
Xxx-xx-xxxx	4325 Meadow Lane Dr	182226
	Jackson, MS 39206'	

This is to certify that the person name hereon is license under the laws of Mississippi to teach or serve in the public schools or post secondary institutions in the capacity indicated.

CLASS	ENDORSEMENT	Valid from to
A 217	EIE EDUC (4-8)	07/01/2005 to
(Alternate Route Programs)		06/30/2008
AAAA 486	ADMINISTRATOR	07/01/2005 to
		06/30/2010

By order of the State Board of Education

s/Dr. Henry Johnson

STATE SUPERINTENDANT OF EDUCATION

APPENDIX G

Claiborne County School District
Annie Kilcrease, Ph.D., Superintendent
404 Market Street—Port Gibson, MS 39150
Ph: (601) 437-4232—Fax (601) 4374490
Email: akilcrase@mde.k12.ms.us

Board of Education
Addie Harvey, President
Jessie McClorine, Vice-President
Janice Gray
Johnny Brown
Addell Watts

July 10, 2006
Board of Education
Claiborne County Public School
404 Market Street
Prot, Gibson, MS 39150

Dear Members of the Board:

Due to Mr. Spurgeon Banyard, person recommended as the principal for Port Gibson High School for the 2006-07 school year, accepting a job at South Delta High School for $77,000, we are in need of a principal at this time.

I am now recommending Dr. Daisy. La-Cour as principal for the 2006-2007 school year.

Dr. LaCour was the second highest rated candidate for the position. The only reason she was rated second was due to the fact she did not have experience as a secondary principal. She has many years as an experienced administrator. Her credentials and her skills set in Curriculum and Instruction, along with her administrative certificate and experience at the Doctoral level, and experience as Director of Upward Bound, makes her highly qualified to fill this position

The Leadership Team has had the opportunity to converse with Dr. LaCour and are satisfied she brings great vision for Port Gibson High School. Several members of the Port Gibson High School faculty and staff have had the please of meeting Dr. LaCour during the week of July 3-7, 2006 and have been very complimentary of her vision assertiveness and potential leadership she will bring to Port Gibson High School they feel is much needed.

Therefore, I recommend that Dr. Daisy LaCour is name Principal of the Port Gibson High School for the 2006-2007 school term with the same salary offer to Mr. Spurgeon Banyard of $68,500.

Thank you in advance for your consideration of this request.

Respectfully,

s/Annie Kilcrease, Ph.D.
Superintendent of Education

WITH
MISSISSIPPI PBULIC SCHOOLS
DISTRICTS FOR
ASSISTANT SUPERINTENDENT,
PRINCIPALS AND CERTIFICATED
EMPLOYEE

This agreement is made and entered into as the dates indicated below, by and between Daisy LaCour XXX XX XXXX (employee), and the Claiborne County School District (employer), with the employee having been dully elected and approved for employment by the school board of the employer.

This is agreement provides:

That the employee will be employed by the employer for the scholastic year (s) 2006-2007 and shall hold the position PRINCIPAL

That the employee will be employed for 225 days during said scholastic year. And that the employee shall be available to perform assigned duties beginning on 07/11/2006 and ending on June 20. 2007 as or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

APPENDIX I-1

That the employee will perform assigned duties during the school term. And that the school term will consist of 181 days and will commence and end on dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid certificate is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of $68,500.00 which shall be paid in 24 equal installments with the first payment beginning on the last working day of the month for which duties are performed or as may be otherwise provided by law. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Minimum Program Salary scale for the appropriate certificate and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are performed by the employee,

This contract shall be subject to all applicable, policies, resolutions, rules and regulations of the employer and the laws of the Sate of Mississippi, copies which are available from the Superintendent's office

This contract of employment has been executed in duplicate on the dates indicated as witness by the signature of the employee and the duly authorized superintendent.

s/Annie Kilcrease	s/Daisy M. LaCour, Ed.D
Superintendent	Employee
July 10, 2006	July 10, 2006.
Date	Date

The employer does not discriminate on the basic of sex, race, religion , color, national origin, age and handicap

Claiborne County School District
Annie Kilcrease, Ph.D., Superintendent
404 Market Street—Port Gibson, MS 39150
Pht (601) 437-4232—Fax (601) 4374490
Email: akilcrase@mde.k12.ms.us

Board of Education
Addie Harvey, President
Jessie McClorine, Vice-President
Janice Gray
Johnny Brown
Addell Watts

April 5, 2007

Dr. Daisy M. LaCour
159 Old Hwy 18 E
Port Gibson High School
Prot, Gibson, MS 39150

RE: Release from 2006-2007 Employment Contract

Dear Dr. LaCour:

You are hereby notified that you are release of your employment contract with the Claiborne County School Public School District effective Thursday, April 5, 2007, pursuant to MS Code 57-9-59 due to your continued presence on

school premises interferes with and/or causes a disruption to the normal school operations and a threat to the safety or general welfare of the students. This notification officially relieves you of all duties and responsibilities as Principal of Port Gibson High School. At the close of the business day, on April 5, you are to exit the premises and in doing so, you are to relinquish all keys and property belonging to Claiborne County Pubic School District. You are to clear with Fixed Assets by getting a clean audit from Mrs. Shirley Peters.

You have the right to request a hearing before the Claiborne County Board of Education should you disagree with this decision.

In addition to vacating the Port Gibson High School premises, your are also notified to vacate the Principal's House on Ramsey Drive. Mr. Earl Smith and Mr. Donald Reeves will be the designated personnel you need to relinquish the keys to. Please make sure a predetermined time has been arranged for Mr. Reeves and/or Mr. Smith to meet you, inspect the dwelling and pick up the keys.

Sincerely,

s/Annie Kilcrease

Superintendent of Education

CC. Mr. Everett Sanders, Board Attorney

APPENDIX J-2

Miss. Code 37 – 9 – 59, Grounds and procedure for dismissal or suspension of licensed employee; attendance of different school system by child as ground for denying employment or reemployment of superintendent, principal or licensed employee.

For incompetence, neglect of duty, immoral conduct, intemperance, brutal treatment of a pupil or other good cause the superintendent of schools may dismiss or suspend any license employees in any school district. Before being so dismissed or suspended any licensed employee shall be notified of charges against him and he shall be advised that he is entitle to a public hearing upon said charges. In the event the continued presence of said employee on school premise poses a potential threat or danger to the health and safety or general welfare of the students, or, in the discretion of the superintendent, may interfere with or cause a disruption of normal school operations the superintendent may immediately release said employee of all duties pending if one is requested by the employee. In the event a licensed employee is arrested, indicted, or otherwise charged with a felony by a recognized law enforcement official, the

continued presence of the licensed employee of school premises shall deem to constitute a disruption of normal school operations. The school board, upon a request for a hearing by the person so suspended or removed shall set a date, time and place for such a hearing which shall be not sooner than five (5) days nor later than thirty (30)days from the date of the request. The procedure for such hearing shall be as prescribed for hearings before board or hearing officer in Section 37-9-111. From the decision made at said hearing, any licensed employee shall be authorized in Section 37-9-113. Any party aggrieved by action of the chancery court may appeal to the Mississippi Supreme Court as provided by law. **In the event that a licensed employee is immediately relieved of duties pending a hearing, as provided in this section, said employee shall be entitled to compensation for a period up to and including the date that the**

initial hearing set by the school board, in the event that is a request for such a hearing by the employee. In the event that employee does not request a hearing within five (5) calendars of the date of discharged or suspension, it shall constitute a wavier of rights by said employee and such discharged or suspension shall be effective on the date set out in the notice to the employee.

The school board of every school district in this state is herby prohibited from denying employment or reemployment to any person as a superintendent, principal or licensed employee, as defined in Section 37-19-1, or as a non-instructional personnel, as defined in Section 37-19-1. for the single reason that any eligible child of such person does not attend the school system in which such superintendent, principal or licensed employee or non-instructional personnel is employed.

APPENDIX K-3

MISSISSIPPI CODE OF 1972 as amended
SEC. 37-9-111 Hearing;

37-9-111 (1) The school board or its designee, upon a request for a hearing from an employee under the terms of Sections 37-9-101 through 37-9-113, shall set the time, place and date of such hearing and notify the employee in writing of same. The date shall be set not sooner than (5) days nor later than thirty (30) days from the date of the request, unless other wised agreed. The hearing may be held before the board or before a hearing officer appointed for such purpose by the board, either from among its own membership, from the staff of the school district or some other qualified and impartial person, but in no event shall the hearing officer be the staff member responsible for the initial recommendation of nonremployment. No hearing officer may have an interest in the outcome of a hearing, nor may a hearing officer be related to a board member, any administrator making the recommendation of nonreemployment or the employee. Once a hearing officer is appointed, no ex parte communication may be make regarding any substantive provision of the hearing.

(2) The hearing must be held in executive session unless the employee elect to have a

public hearing. If an employee makes this election, however, the board or he hearing officer, as the case may be, may order any part of the hearing to be held in executive session, if, in the opinion of the board or the hearing officer, the testimony to be elicited deals with matter involving the reputation character of another person. Notwithstanding the election by an employee for public hearing, and testimony by a minor witness must be held in executive session and considered confidential personnel records and confidential student records, subject to an expectation of reasonable privacy and confidentiality, Public disclosure of these records maybe by court order only.

(3) The district shall present evidence, ether in written or oral form, at the hearing in support of its recommendation for nonreemployment.

****The employee shall be afforded an opportunity to present matter at the hearing relevant to the reasons given for the proposed nonreemployment determination and to the reasons the employee alleges to be the reasons for nonreemployment and to be represented by counsel at such hearing. Such hearing shall be conducted in such a manner as to afford the parties a fair and reasonable opportunity to present witnesses and other evidence pertinent

to the issues****and to cross-examine witnesses presented at the hearing. The board or hearing officer may require any portion of the evidence to be submitted in the form of depositions or affidavits, and in case affidavits are received, an opportunity to present counter-affidavits shall be provided.

(4) The board shall cause to be make stenographic notes of the proceedings. In the event of a judicial appeal of the board's decision, the entire expense of the transcript and notes shall be assessed as court cost.

(5) The board shall review the matter presented before it, or, if the hearing is conducted by a hearing officer, the report of the hearing officer, if any, the record of the proceedings and, based solely thereon, conclude whether the proposed nonreemployment***is a proper employment decision, is based upon a valid educational reason or noncompliance with school district personnel policies and is based solely upon the evidence presented at the hearing and shall notify the employee in writing of its final decision and reasons therefor. Such notification shall be within thirty (30) days of the conclusion of the hearing if the hearing is conducted by a hearing officer and within ten (10) days of the conclusion of the hear-

ing if the hearing is initially conducted by the board. If the matter is heard before a hearing officer, the board shall also grant the employee the opportunity to appear before the board to present a statement in his own behalf, either in person or by his attorney, prior to a final decision by the board.

(6) In conducting a hearing, the board or hearing officer shall not be bound by common law or by statutory rules of evidence or by technical or formal rules of procedure except as provided in Sections 37-9-101 through 37-9-113, but may conduct such a hearing in such manner as best ascertain the rights of the parties;****however, hearsay evidence, if admitted, shall not be the sole basis for determination of facts by the board or hearing officer.

(7) In the event the decision of the school board is in favor of the employee, the board shall have the authority to order the execution of a contract with the employee for an additional period of (1) year.

(8) For the purpose of conducting hearing under Sections 37-9-101 through 37-9-113, the board or hearing officer shall have the authority to issue subpoenas for witnesses and to compel their attendance and giving evidence.

Any expense connected therewith shall be borne by the party requesting the subpoenas, which shall include an appearance fee for each witnesses so subpoenaed not inconsistent with state laws governing payments to witness.. In the event it is necessary to enforce or to quash a subpoena issued to compel the attendance of a witness, application shall be made with the chancery court of the county where the board is located.

MISSISSIPPI CODE OF 1972

AS AMENDED

Sec. 37-9-113. Judicial review.

(1) Any employee aggrieved by a final decision of the school board is entitled to judicial review thereof, as hereinafter provided.

(2) An appeal may be taken by such employee to chancery court of the judicial district in which the school district is located, by filing a petition with the clerk of the court and executing and filing bond payable to the school board with sufficient sureties in the penalty of not less than two hundred ($200.00), conditioned upon payment of all of the cost of appeal within twenty (20) days of receipt of the final decision of the board.

(3) The scope of review of the chancery court in such cases shall be limited to a review of the record make before the school board hearing officer to determined if the action of the board is unlawful for the reason that was:

a. Not supported by substantial evidence;

b. Arbitrary or capricious or

c. In violation of some statutory or constitutional right of employee.

(4) No relief shall be granted based upon a court's finding of harmless error by the board in complying with the procedural requirements of section 37-9-101 to 37-9-113. However, in the event that there is a finding of prejudicial error in the proceedings, the cause shall be remanded for a rehearing consistent with the findings of the court.

(5) Any party aggrieved by action of the chancery court may appeal to the Supreme Court in the manner provided by law.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Jackson, Area Office

Dr. A.H. McCoy Federal Building
100 W. Capitol Street, Suite 207
Jackson, MS 39269
(6010 948-8400
TTY (601) 948-8469
FAX (601) 948-8401

Certified No, 7006 0810 0000 6867 1183
Charge No. 423-2007-02407

Dr. Daisy LaCour Charging Party
257 Windy Hill Drive
Flora, Mississippi 39071

Claiborne County School District Respondent
c/o Dr. Annie Kilcrease, Superintendent
404 Market Street
Port Gibson, MS 39150

DETERMINATION

On behalf of the Commission, I issue the following determination on the merits of the subject charge. All requirements for coverage are met. Charging Party alleged that she was discriminated against in violation of Title VII of

the Civil Rights Act of 1964, as amended, because of her sex, female, in that she was subjected disparate treatment and terminated from her Principal position by the Superintendent (female).

Respondent denied Charging Part's allegation of discrimination and contended that Charging Party was terminated due to her inability to deal with escalating discipline problem at her school as well as her failure or refusal to adhere to the district's policy or to administer discipline in an equitable manner.

Examination of the evidence revealed that Charging Party was hired as high school Principal for school year 2006-2007, after a successful male candidate declined this position. (It should be noted that Charging Party was hired as an Assistant Principal to successful male candidate who declined the Principal position). Evidence revealed that Charging Party's predecessor was a male and her successor is a male. Evidence further revealed that Assistant Principals were hired to assist both the male predecessor and the male successor; however, Charging Party did not have Assistant Principals to assist her.

Evidence revealed that a male administrative assistant was hired and assigned to the high

school (Charging Party's school) to handle the discipline; however, Charging Party was terminated from her Principal position due to "her inability to deal with the escalating discipline problem". This male administrative assistant was not discipline or terminated for the disciplinary problem at this high school.

Evidence further revealed that upon terminating Charging Party, Respondent hired a male Principal and two Assistant Principals for the school year 2007-2008. Respondent stated that their rationale for this is that the high school had gotten out of control as it relates to discipline and student academic achievement during the 2006-2007 school year under Charging Party.

The evidence showed that Charging Party was treated less favorable than the male high school Principals in that she was not afforded the same support/opportunity as the male principals, to achieve success. The reason for terminating Charging Party do not withstand scrutiny. Based on the analysis and the record as a whole, I have determined that the evidence obtained during the investigation establishes violation of Title VII of the Civil Rights Act of 1964 as amended, in that Charging Party was discriminated against because of her

sex, female.

This determination does not conclude the processing of this charge. EEOC will begin conciliation effort to resolve all matters where there is reason to believe that violation have occurred.

This determination is final. When the Commission finds that violations have occurred, it attempts to eliminate unlawful practices by informal methods of conciliation. Therefore, I invite the parties to join with the Commission in reaching a just resolution of this matter.

Disclosure of information by the Commission during the conciliation process will be make only in accordance with the Commission's Procedural Regulation (29 CFR Part 1601.26).

If the Respondent wish to accept this invitation to participate in conciliation efforts, it may do so at this time by proposing terms for conciliation agreement; that proposal should be provided to the Commission Representative within 14 days of the date of this determination. The remedies for violations of the statutes we enforce are design to make the identified victims whole and to provide corrective and preventive relief. These remedies may include, as appropriate, an agreement by the

Respondent to not engage in unlawful employment practices, placement of identified victims in positions they would have held but for discriminatory actions, back pay, restoration of lost benefits, injunctive relief, compensator and/or punitive damages, and notice to employees of the violation and the resolution of the claim,

If the Respondent wishes to accept this invitation to participate in conciliation efforts, it may do so by signing the enclosed conciliation proposal or by submitting an alternative conciliation proposal for consideration by the EEOC within 14 days of date of this determination.

On behalf of the Commission

09./24/08 — s/Wilma J. Scott

Date — Wilma Scott
Area Officer Director

Enclosure: Proposed Conciliation Agreement
Cc Everett T. Sanders, Attorney at Law

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Jackson, Area Office

Dr. A.H. McCoy Federal Building
100 W. Capitol Street, Suite 207
Jackson, MS 39269
(6010 948-8400
TTY (601) 948-8469
FAX (601) 948-8401

Dr. Daisy LaCour
257 Windy Hill Drive
Flora, Mississippi 39071

RE: Charge No. 423-2007-02407
Dr. Daisy LaCour v. Claiborne County School District

Dear Dr. LaCour:

Title VII requires that the Department of Justice (DOJ) bring suit against a state or local government agency. Accordingly we are transmitting your case against the above name respondent to DOJ.
If the DOJ decides to bring suit under Title VII, you have a right to intervene in such an action. If the DOJ decides that it will not sue under Title VII, you will be informed and

receive a Notice of Right to Sue which will entitle you to sue under Title VII (you must file suit within 90 days of receipt of our notice, or your right to sue will be lost).

Sincerely,

09./29/08
Date

s/Wilma J. Scott
Wilma Scott
Area Officer Director

CC: Ms Ermea Russell
Russell Law Firm, PLLS
P.O. Box 24561
Jackson, MS 39225

APPENDIX O-2

SANDERS LAW FIRM
ATTORNEYS-AT-LAW
133 S. COMMERCE STREET
NATCHEZ, MS 39120
(601) 445-5570
FAX (601) 445-0777
EVERETT T. SANDERS
CHESTER RAY JONES
Mailing Address
P.O. Box 565
Natchez, MS 39121

VJTA FACSIMILE ONLY 601 366.4395

October 6, 2008

Gail Wright Lowery, Esq.
1400 Lakeover Road, Suite 150
Jackson, MS 39213

RE: Termination Hearing for Dr. Daisy LaCour

Dear Mrs. Lowery:

Please be advised that the Claiborne County Board of Education voted on Wednesday, October 1, 2008, based on the evidence, to uphold the termination of Dr. LaCour.

If you have any questions do not hesitate to contact me.

Very truly yours,
SANDERS LAW FIRM
s/Everett T. Sanders

APPENDIX P

U.S. Department of Justice

Civil Rights Division

Employment Litigation Section-PHB
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
www.usdoj,gov/crt/emp/empohome.html

NOTICE OF RIGHT O SUE WITHIN 90 DAYS

GCB:WBF:mdw
DJ 170-41-306

OCT 27 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dr. Daisy M. LaCour'
257 Windy Hill Drive
Flora, MS 39071

RE: Dr. Daisy M. LaCour v. Claiborne County School District, EEOC No. 423-2007-02407

Dear Dr. LaCour:

It has been determined that the Department of Justice will not file on the above-referenced charge of discrimination that was referred to us by the Equal Employment Opportunity Commission (EEOC). This should not be taken to mean that the Department of

Justice has made a judgment as to whether or not your charge is meritorious.

You are hereby notified that conciliation in this matter was unsuccessful by EEOC. You are further notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended. 42 U.S.C. 2000e et seq., against the above named respondent. If you choose to commence a civil action, such suit must be filed in the appropriate court within 90 days of your receipt of this Notice.

Therefore, you should consult an attorney of your own choosing at your earliest convenience. If you are unable to locate an attorney, you may wish to contact the EEOC, or apply to the appropriate court, since the court may appoint an attorney in appropriate circumstance under Section 706 (f) (l) of Title VII, 42 U.S.C 2000e-5(f)(l).

We are returning the files in this matter to EEOC's Jackson Area office. If you or your attorney have any questions concerning this matter or wish to inspect the investigative file, please feel free to address your inquiry to Wilma Scott, Director, EEOC, 100 W. Capitol Street, Suite 207, Jackson, MS 39269.

APPENDIX Q-2

Sincerely,

Grace Chung Becker
Acting Assistant Attorney General
Civil Rights Division

By s/William B. Fenton
William B. Fenton
Deputy Chief
Employment Litigation Section

CC Everett Sander, Esq.
Claiborne County School District
EEOC District Office

APPENDIX Q-3

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT
OF MISSISSIPPI
WESTERN DIVISION

Dr. DAISY M. LACOUR PLAINTIFF

VERSUS CIVIL NO: 5:08cv315-DCB-JMR

CLAIBORNE COUNT SCHOOL DISTRICT
AND DR. ANNIE KILCREASE,
SUPERINTENT DEFENDANTS

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

COMES NOW, plaintiff, Dr. Daisy M. LaCour, pro se, and for the cause of action against the defendants Claiborne County School District (improperly name as "Claiborne County School District Board" and Dr. Annie Kilcrease, Superintendent in violation of Title VII of the Civil Rights Act of 1964, as amended in that Plaintiff was discriminated against because of her sex, female, file Plaintiff's Motion For Summary Judgment, pursuant to Fed. R. Civ. Pro. 56. In support thereof, Plaintiff would show unto this court as follows:

ITEMIZATION OF UNDISPUTED FACTS

1 On Thursday, April 5, 2007 Dr. Daisy M. LaCour received a Hand Delivered letter by Chief Terrance Watson from Dr. Annie Kilcrease, Superintendent of Education, CLAIBORNE COUNTY SCHOOL DISTRICT stating, "You are hereby notified that you are release of your employment with the Claiborne County School Public School District effective Thursday, April 5, 2007, pursuant to MS Code 37-9-59." (See, copy of Hand-Deliver letter from Dr. Annie Kilcrease, Superintendent of Education, and Claiborne County School District Dated April 5, 2007 (attached hereto as Exhibit) **(See Copy of MS Code 37-9-59**. (Attached hereto as Exhibits 2).

2. When a notice of termination or suspension has been issued, circumstances may permit the superintendent to release the employee from his duties immediately. Miss. Code Ann. 37-9-59 (1990). An employee may be released if his continued presence on campus poses a potential threat or danger to the students or if, in the superintendent's discretion, his continued presence may interfere with or cause a disruption of normal school operations, Miss. Code Ann. Id. 37-9-59 (1990).) If the employee has been arrested, indicted or otherwise charged with a felony, his continued

presence on campus is statutorily deemed to constitute a disruption of school operations, and his immediate removal is automatically permitted Miss. Code Ann. Id. 37-9-59 (1990). In any case, if the employee is released from his duties pending a hearing, the district must continue to compensate him up to and including the date hearing is set by the board. Miss. Code Ann. Id. 37-9-59 (1990).

3. At a termination or suspension hearing, the burden rest upon the superintendent to prove by a preponderance of the evidence that the adequate grounds for the adverse employment action exists. Merchant v. Pearl Mun. Separate Sch. Dist., 492 So. 2d 959, 961 (Miss. 1986) citing Mississippi Employment Sec. Comm'n v. Philadelphia Mun. Separate School Dist., 437 So. 2d 388, 393 n.4 (Miss. 1983); Sims v. Board of Trustees, 414 So. 2d 431, 434 (Miss. 1982).

4. Purpose of Mississippi School Employment Procedures Law is to protect employees from unfair and sometimes vindictive practices of their superiors. Burks v. Amite County School District (Miss. 1998) 708 So 2d 1366. Schools – 63(1)

5. Claiborne County School District (improperly name as "Claiborne County School District Board" and Dr. Annie Kilcrease, Superintendent after termination of Dr. Daisy M.

LaCour on April 5, 2009 did not pay Dr. Daisy M. LaCour the remaining money due her from her contract. (Attached here to Contract as Exhibit 3)

6. Claiborne County School District (improperly name as "Claiborne County School District Board" and Dr. Annie Kilcrease, Superintendent after termination of Dr. Daisy M. LaCour on April 5, 2009 did not pay Dr. Daisy M. LaCour the remaining money due her from her contract. (Attached here to Contract as Exhibit 3)

6. Claiborne County School District (improperly name as "Claiborne County School District Board" and Dr. Annie Kilcrease, Superintendent after termination of Dr. Daisy M. LaCour on April 5, 2009 did not pay Dr. Daisy M. LaCour the remaining money due her from her contract. There was not a statement in the Memorandum of Authorities in Support of Defendants Motion for Summary Judgment where the Defendants acknowledge that they did not pay the remaining money of Plaintiff's contract. Defendants make a nuisance value of $10,000.00 which is less than the remaining money owed on Dr. Daisy M. LaCour's contract. (Attached here to is a copy of Dr. Daisy M. LaCour last pay check as Exhibit 4).

7. It has been established that the amended claim of contract has been established in Plaintiffs Claim

8. Defendants Motion for Combine Summary Judgment and Memorandum of Authorities in Support stated there were, "For example, gang violence, fighting and drugs use at the school increased dramatically. I do not believe that The Mississippi Department of Education was made aware that of the violence at this school through the information reporting system. I presented documents to counsel that showed that is information was not reported to the Mississippi Department of Education. If the Mississippi Depart of Education knew of the statements of violence, at Port Gibson High School this school would have been listed as one of the states violent and dangerous school. Port Gibson High School would have been given the status of one of the state of Mississippi priority school. The MISIS information that was given to opposing Counsel showed that this data was not enter with the Mississippi Department of Education. Data Bank. In Defendant Pre-Discovery document there were only disciplinary referrals.

9. It is a fact that every male principals before Dr. Daisy M. LaCour had a Mississippi Department of Education certified assistant principal. (Dr Daisy M. LaCour was not afforded the opportunity through Pre-Discovery Discovery of Core Information by Defendants (See Exhibit 5); Defendants' Responses to Plaintiff's First Set of Request for Production of Documents and Things Propounded to

Defendant (See Exhibit 6) and Defendants' Responses to Plaintiff's First Set of Interrogatories Propounded to Defendants (See Exhibit 7) to show that all assistant principals of Claiborne County School District had Mississippi Department of Education Administrator Certification). It is a fact that all principals (male) of Port Gibson High School had an assistant principal. There no information provided on any of the assistant principals that Claiborne County School District employed. However, the title Assistant Principal was given to all persons performing the duties of assistant principal, none were given the title of Administrative Assistant. Only Mr. Ray Gillespie has been given that title if Administrative Assistant.

10. It is a fact that the male principal (2007-08) after Dr. Daisy M. LaCour had two Mississippi Department of Education Certified Administrator License assistant principals. (Dr. Daisy M. LaCour was not afforded the opportunity through Pre-Discovery Discovery of Core Information by Defendants (See Exhibit 5);

Defendants' Responses to Plaintiff's First Set of Request for Production of Documents and Things Propounded to Defendant (See Exhibit 6) and Defendants' Responses to Plaintiff's First Set of Interrogatories Propounded to Defendants (See Exhibit 7) to show that all assistant principals of Claiborne County School

School District had Mississippi Department of Education Administrator Certification) Please note that only the Principal's Certification was provided. There were no documents that indicated any information about the assistant principals who were hired and worked in the Claiborne County School District.

11. It is a fact that the male principal (2008-09) had an assistant principal and the Male Principal had several federal indictments for selling student athletes in the Federal Court TN this was part of the documents counsel received from me. Miss. Code Ann. 37-9-59 (1990), which was applied to Plaintiff dismissal letter. This code states that Plaintiff must be indicted or be convicted of felony. She was neither indicted nor a convicted felon but the (2008-09) the Claiborne County School District haired a male principal who was indicted in the United States District Court For the Western District of Tennessee Western Division. (Copy of Federal indictment of Lynn Lang See

Exhibit 8). (Dr. Daisy M. LaCour was not afforded the opportunity through Pre-Discovery of Core Information by Defendants (See Exhibit 5); Defendants' Responses to Plaintiff's First Set of Request for Production of Documents and Things Propounded to Defendant (See Exhibit 6) and Defendants' Responses to Plaintiff's First Set of Interrogatories Propounded to Defendants (See Exhibit 7) to show that all assistant principals of Claiborne County School District had Mississippi Department of Education Administrator Certification)

12 It is a fact that the district hired a female principal (2009-10) for Port Gibson High School and hired three male assistant principals. (Dr. Daisy M. LaCour was not afforded the opportunity through Pre-Discovery Discovery of Core Information by Defendants (See Exhibit 5); Defendants' Responses to Plaintiff's First Set of Request for Production of Documents and Things Propounded to Defendant (See Exhibit 6) and Defendants' Responses to Plaintiff's First Set of Interrogatories Propounded to Defendants (See Exhibit 7) to show that all assistant principals of Claiborne County School District had Mississippi Department of Education Administrator Certification)

13. Dr. Daisy M. LaCour did not have a Mississippi Department of Education Administrator certified assistant principal. (Dr. Daisy M. LaCour was not afforded the opportunity

through Pre-Discovery Discovery of Core Information by Defendants (See Exhibit 5); Defendants' Responses to Plaintiff's First Set of Request for Production of Documents and Things Propounded to Defendant (See Exhibit 6) and Defendants' Responses to Plaintiff's First Set of Interrogatories Propounded to Defendants (See Exhibit 7) to show that all assistant principals of Claiborne County School District had Mississippi Department of Education Administrator Certification)

14. In Defendants Combined Motion for Summary Judgment and Memorandum of Authorities in Support a statement was written and I quote, "Also, with regard to Plaintiff's claim that she did not have an assistant principal, she did have an assistant principal but because this person did not have all of the proper credential, he was not give this title and instead bore the title of 'Administrative Assistant,', however functional in the role of an assistant principal. If you are not a Mississippi Department of Education Certified Administrator you can not serve, function, carry on any duties of an assistant principal. Mississippi Department of Education Certification Department needs to be aware that Claiborne County School Districts admits to having a non-certified employee serving in the capacity of a Certified Administrator.

15. Mr. Ray Gillespie (male) who was Plaintiff administrative assistant was not a Certi-

Administrator with Mississippi Department of Education

16. In Defendants Combined Motion for Summary Judgment and Memorandum of Authorities in Support letters submitted dated May 4, 2007 from Mr. Ray Gillespie and Mrs. Clarena Jones. (Attached is the copy of 2 letters Exhibit 9A and 9b). These letters were written by Mr. Ray Gillespie and Mrs. Clarena Jones one mother after Dr. Daisy M. LaCour had been release from her duties as principal.

17. On April 6, 3009 a complaint that was filed by three students and their parents alleging inappropriate sexual behavior of Mr. Ray Gillespie (male) who was not a certified Administrator with the Mississippi Department of Education who served as Plaintiff Administrative Assistant. (See copy of Alleged Sexual involvement of school employee with Students filed 04/06/09, Exhibit 10).

18. Examination of the evidence by U. S. Equal Employment Opportunity Commission revealed that a male administrative assistant was hired and assigned to the high school (Charging Party's school) to handle the discipline; however, Charging Party was terminated from her Principal position due to "her inability to deal with the escalating discipline problem." This male administrative assistant was not disciplined or terminated for the disciplinary problems at this high school.

19. It is very apparent that neither defendants nor their counsels understand that this lawsuit is a violation of Title VII of the Civil Rights Act of 1964, as amended in that Plaintiff was discriminated against because of her sex, female and contractual agreement. Discipline is not an issue in this lawsuit. The same materials; Pre-Discovery Discovery of Core Information by Defendants (See Exhibit 5); Defendants' Responses to Plaintiff's First Set of Request for Production of Documents and Things Propounded to Defendant (See Exhibit 6) and Defendants' Responses to Plaintiff's First Set of Interrogatories Propounded to Defendants (See Exhibit 7) Defendants presented to this court and was present to U. S. Equal Employment Opportunity Commission. EEOC wrote the following findings: After the Examination of the evidence by U. S. Equal Employment Opportunity Commission further showed that Charging Party was treated less favorable than the male high school Principals in that she was not afforded the same support/opportunity as the male Principals, to achieve success. The reasons for terminating Charging Party do not withstand scrutiny. Based on the analysis and the record as a whole. Evidence obtained during the U. S. Equal Employment Opportunity Commission gave a determination that established violation of Title VII of the Civil Rights Act of 1964, as amended in that Charging Party was

discriminated against because of her sex, female.

20 The U. S. Equal Employment Opportunity Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 2000e-2 or 2000e-3 of this title *[section 703 or 704]*. Eszean S. McDuffey was the Enforcement investigator assigned to Plaintiff EEOC investigation. (See letter dated July 26, 2007 (Exhibit 11) and Principal Chart Principals and Assistant Principal of Claiborne County School District (Exhibit 12))

21. On September 24, 2008, U. S. Equal Employment Opportunity Commission decisions that "All requirements for coverage are met" Charging Party (Dr. Daisy M. LaCour) alleged that she was discriminated against in violation of Title VII of the Civil Rights Act of 964, as amended, because of her sex, female, in that she was subjected to disparate treatment and terminated from her Principal position by Superintendent (female). (See, copy of U.S. Employment Opportunity Commission decisions dated September 24, 2008 attached hereto as Exhibit 13).

22. Examination of the evidence by U. S. Equal Employment Opportunity Commission reveals that Charging Party (Dr. Daisy M. LaCour) was a High School Principal for school year 2006-07, after a successful male candidate declined this position.

(It should be noted that Charging Party was hired as an Assistant Principal to the successful male candidate who decline the Principal position) Evidence revealed that Charging Party's predecessor was a male and her successor is a male. Evidence further revealed that Assistant Principals were hired to assist both the male predecessor and the male successor; however, Charging Party did not have an Assistant Principal to assist her.

23. Examination of the evidence by U. S. Equal Employment Opportunity Commission revealed that a male administrative assistant was hired and assigned to the high school (Charging Party's school) to handle the discipline; however, Charging Party was terminated from her Principal position due to "her inability to deal with the escalating discipline problem." This male administrative assistant was not disciplined or terminated for the disciplinary problems at this high school.

24. Examination of the evidence by U. S. Equal Employment Opportunity Commission further revealed that upon terminating Charging Party, Respondent hired a male Principal and two Assistant Principals for the school year 2007-08. Respondent stated that their rationale for that is that the high school had gotten out of control as it relates to discipline and student academic achievement during the 2006-2007 school year under Charging Party.

25. Examination of the evidence by U. S. Equal Employment Opportunity

Commission further showed that Charging Party was treated less favorable than the male high school Principals in that she was not afforded the same support/opportunity as the male Principals, to achieve success. The reasons for terminating Charging Party do not withstand scrutiny. Based on the analysis and the record as a whole. Evidence obtained during the U. S. Equal Employment Opportunity Commission gave a determination that established violation of Title VII of the Civil Rights Act of 1964, as amended in that Charging Party was discriminated against because of her sex, female.

26. On September 28, 2008 Dr. Daisy M. LaCour sent a response to determination decision stating that she would participate in conciliation effort with U. S. Equal Employment Opportunity Commission. (See, copy of letter sent to Employment Opportunity Commission decisions dated September 28, 2008 from Dr. Daisy M. LaCour attached hereto as Exhibit 14).

27. Defendants did not and would not participate in a conciliation conference with the U. S. Equal Employment Opportunity Commission and Dr. Daisy M. LaCour. It is apparent that the Defendants have taken the same position with this court proceeding as they took

with U. S. Equal Employment Opportunity Commission.

28. On September 29, 2008 Dr. Daisy M. LaCour received another corespondence from the U.S. Equal Employment Opportunity Commission that states that Title VII requires the Department of Justice (DOJ) bring suit against a state or local government agency. (See, copy of U.S. Employment Opportunity Commission letter dated September 29, 2008 attached hereto as Exhibit 15).

29. On October 31, 2008 Dr. Daisy M. LaCour received from the U.S. Department of Justice Civil Rights Division a Notice of the Right to Sue under Title VII within the ninety (90) days of receipt of notice). (See, copy of U.S Department of Justice Civil Rights Division letter dated October 27, 2008 attached hereto as Exhibit 16).

30. On November 24, 2008, Dr. Daisy M. LaCour without any legal assistant filed a lawsuit against Claiborne County School District Board and Dr. Annie Kilcrease, Superintendent in violation of Title VII of the Civil Rights Act of 1964, as amended in that Plaintiff was discriminated against because of her sex, female; and demand a jury and filed a Motion for the Court to appoint Attorney for Dr. Daisy M. LaCour

31. On January 9, 2009 Louis H. Watson agree to represent Dr. Daisy M. LaCour on a contingency fee.

32. February 10, 2009 – Pre-Discovery Disclosure of Core Information by Dr. Daisy M. LaCour

33. February 17, 2009 - Case Management Order

34. February 25, 2009 – Agreed Protective Order

35. February 26, 2009 – Defendants' First Set of Request for Production of Documents and Things Propounded to Plaintiff

36. February 26, 2009 – Defendants' First Set of Interrogatories Propounded to Plaintiff

37. March 10, 2009 – Defendants' Memorandum in Support of Motion to Dismiss Plaintiff's Intention Inflection of Emotional Distress-Claim

38. March 10, 2009 - Defendants' Motion to Dismiss Plaintiff's Intentional Infliction of Emotional Distress Claim

39. March 30, 2009 - Agreed Order of Partial Dismissal

40. March 31, 2009 – Plaintiff's Responses to Defendant's First Set of Interrogatories Propounded to Plaintiff

41. May 5, 2009 – Plaintiff's Responses to Defendant's First Set of Requests

for Production of Documents and Things Propounded to Plaintiff

42. On June 3, 2009 a deposition was schedule in attorney Victoria J. Prince and Louis H. Watson office for Dr. Daisy M. LaCour.

43. On June 2, 2009 deposition was cancel by Attorney Stephanie C. Edgar with Copeland, Cook, Taylor & Bush, Ridgeland, MS want to negotiate a settlement agreement. They offer $10,000.00 and the next offer was $20,000.00 which was told to me by Attorney Victoria Prince (an attorney with Attorney Louis H. Watson Jr.) as I sat in front (desk) of Attorney Prince while she spoke with Attorney Stephanie Edgar vita telephone. I would not agree to the offer and Attorney Louis Watson stated that if I did not agree to the offer. He would terminate his agreement with Dr. Daisy M. LaCour and give her a bill

44. On June 9, 2009 Dr. Daisy M. LaCour received a bill for $418.00 and received email. A certified letter is forthcoming terminating services and that Attorney Louis H. Watson, Jr. would be filing the necessary paper work removing himself from Dr. Daisy M. LaCour case.

45. June 9, 2009 – Designation of Expert Witness was filed.

46. June 11, 2009 – Dr. Daisy M. LaCour looked up her case on the computer of the U. S. District Court Southern District of Mississippi (Western), Civil Docket for Case #: 5:08-cv-00315-DCB-JMR with the intentions of finding information that hadbeen enter on her case. Before she file motion to Reestablished herself Pro Se

47. June 11, 2009 – Dr. Daisy M. LaCour filed her Motion Re-establishing

Pro Se Dr. Daisy M. LaCour and no motion had been enter into the court system from

Attorney Louis H. Watson, Jr.

48. June 11, 2009 – Motion to Withdraw was filed by Attorney Louis H.

Watson, Jr. after Dr. Daisy M. LaCour had filed her Motion Re-establishing Pro Se

49. June 12, 2009 – Immediately after Dr. Daisy M. LaCour saw on the court computer that Attorney Louis H. Watson, Jr. had entered into an agreement with opposing counsel to dismiss her claim for intentional emotional stress without her knowledge or consent she filed a Motion to Dismiss Agreed Order of Partial Dismal.

50 June 12, 2009, Dr. Daisy M. LaCour filed an affidavit with the court stating that she was not a participant in this agreed decision by counsels.

51. June 12, 2009, Dr. Daisy M. LaCour filed a formal complaint with the Mississippi Bar against Attorney Louis H. Watson. Something is profoundly wrong when it took Fifty-eight days from the day that I agree to have Attorney Watson to represent me and he had over three thousand pages of documents in his possession and my witness list; and he enter into an agreement with opposing counsel to dismissed my claim for intention emotional stress. The opposing counsels and Attorney Watson have infringed and violated some of Dr. Daisy M. LaCour's civil rights. Docket number: 08-533-2 has been assigned to Dr. LaCour's Complaint with the Mississippi Bar.

52. June 12, 2009 – Dr. Daisy M. LaCour filed a Motion to Amend to Designation of Expert Witness after she found out that Attorney Louis H. Watson did not give her list of expert witness to the court.

53. June 22, 2009 – Dr. Daisy M. LaCour filed a motion - Plaintiff's First Setof Request for Production of Documents and Things Propounded to Defendant

54 June 22, 2009 – Dr. Daisy M. LaCour filed a motion - Plaintiff's First Set of Interrogatories Propounded to Defendants

55 July 6, 2009 – Motion to Amend to Designation of Witnesses was filed after Dr. Daisy M. LaCour discover that Attorney Louis H.

Watson did not provide the court with the list of witness he had been provided by Dr LaCour.

56 July 1, 2009 Defendants did not designated their expert witness on or before set day by case management order signed by Magistrate Judge John M. Roper on

February 17, 2009

57. July 17, 2009 – Dr. Daisy M. LaCour looked on the computers at U. S.

District Court Southern District of Mississippi (Western), Civil Docket for Case #: 5:08 cv-00315-DCB-JMR to see what had been file with the court.

58. July 26, 2009 Letter to Attorney T. Thompson, Attorney Stephanie C Edgar, COPLELAND, COOK, TAYLOR &BUSH, 600 Concourse, 1076 Highland Colony Parkway, P.O. BOX 6020, Ridgeland, Mississippi 39158 - PLAINTIFF'S DISCOVERY INFORMATION AND PRODUCTION OF DOCUMENTSAND THINGS. A total of 3,927 pages of documents were submitted to the opposing counsel for examination and coping. (See Exhibit 17)

59. July 28, 2009 Letter to Attorney T. Thompson, Attorney Stephanie C Edgar, COPLELAND, COOK, TAYLOR &BUSH, 600 Concourse, 1076 Highland Colony Parkway, P.O. BOX 6020, Ridgeland, and Mississippi 39158 - PLAINTIFF'S DISCOVERY

INFORMATION AND PRODUCTION OF DOCUMENTS ANDTHINGS. A total of 73 pages of documents were submitted to the opposing counsel for

examination and coping. (See Exhibit 18)

60 July 30, 2009 Dr. Daisy M. LaCour picked up a total of 4,003 pages of documents that was submitted to Attorney T. Thompson, Attorney Stephanie C Edgar,

COPLELAND, COOK, TAYLOR &BUSH, 600 Concourse, 1076 Highland Colony Parkway, P.O. BOX 6020, Ridgeland, and Mississippi 39158 - PLAINTIFF'S

DISCOVERY INFORMATION AND PRODUCTION OF DOCUMENTS AND THINGS.

61. July 30, 2009 Dr. Daisy M. LaCour filed, PLAINTIFF'S MOTION TO COMPEL DISCOVERY FROM DEFENDANTS CLAIBORNE COUNTY SCHOOL DISTRICT AND DR. ANNIE KILCREASE, SUPERINTENDENT it has been thirty-nine (39) days since the defendants were served - Plaintiff's First Set of Request for Production of Documents and Things Propounded to Defendant and Plaintiff's First Set of Interrogatories Propounded to Defendants. Dr. Daisy M. LaCour pro se have not received a response. There are thirty-two day remaining on the case management order by case order signed by Magistrate Judge John M. Roper on February 17, 2009 stating that all discoveries

that all discoveries shall be completed on or before September1, 2009.

62 July 31, 2009 Plaintiff Response to Defendants Response to Motion to Compel Discovery from Defendants Claiborne County School District and Dr. Annie Kilcrease, Superintendent.

63 Plaintiff is providing this court a copy of emails to and from Attorney Stephanie Edgar requesting Plaintiff's First Set of Request for Production of Documents and Things Propounded to Defendant and Plaintiff's First Set of Interrogatories Propounded to Defendants. (See Exhibit 19)

64. Defendants nor their counsel has abided fully to pursuant to Rules 26, 34, and 37 of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Southern District of Mississippi.

65. In the joint Scheduling Order, the parties agreed that their initial Disclosure information could be supplied at the time and within the context of the parties' responses to the separately served discovery requests. This agreement was intended to make the parties' gathering and reporting of case-related information more efficient. Plaintiff provided her Initial disclosures in full.

66 Plaintiff shows that her discovery requests are reasonably and calculated to lead to the discovery of admissible evidence. The information and documents requested area pointedly relevant to issues in this case. Without proper responses provided by Defendants Claiborne County School District and Dr. Annie Kilcrease, Superintendent, Plaintiff is unable to prepare her case for trial or investigate fully Defendants Claiborne County School District and Dr. Annie Kilcrease, Superintendent's affirmative defenses of independent creation.

67. It has been fifty-seven (58) days since the defendants were served – (1) Plaintiff's First Set of Request for Production of Documents and Things Propounded to Defendant and (2) Plaintiff's First Set of Interrogatories Propounded to Defendants. Dr. Daisy M. LaCourt pro se did received a response on today, August 18, 2009. Defendants did not file a motion for an extension nor did this court grant Defendant one. It was only after an order signed August 12, 2003 was enter granting Dr. Daisy M. LaCour her motion to compel. There are Thirteen (13) days remaining on the case management order signed by Magistrate Judge John M. Roper on February 17, 2009 stating that all discoveries shall be completed on or before September 1, 2009.

68. It is a fact that Defendant's counsel Attorney Stephanie Edgar contacted several of Dr. Daisy M. LaCour witness and was very rude, intimidating and conformational. Dr. Daisy M. LaCour was informed by one of my witness, Ms Sandra Hall that Attorney Edgar told her that the court did not want to hear anything she had to say. She also received a right to sue for in violation of Title VII of the Civil Rights Act of 1964, as amended in that Plaintiff was discriminated against because of her sex, female in 2007. Mrs. Carolyn Hall was denied a hearing before the school board. (See attaché letter Dated August 14, 2009 Exhibit 20) (Dr. Daisy M. LaCour will be gathering all of the proper documents so that she can file witness tampering charges)

69 Email to Attorney Edgar form Daisy M. LaCour Dated August 8, 2009 seeking Pre Discovery Documents. (See Exhibit 21)

70. On August 11, 2009 Dr. Daisy M. LaCour picked up from COPLELAND,COOK, TAYLOR &BUSH, 600 Concourse, 1076 Highland Colony Parkway, P.O. BOX 6020, Ridgeland, and Mississippi 39158 law office an envelope containing 768 pages of Pre-Discovery Documents that contain the following documents:2006-07 Personnel Manual cover copy; Duties and Responsibilities of Principal and Director; Classroom Monitoring Checklist; Teacher Behavior Observation For A Directed

Teaching Lesson; Drop In Observation Form; Report Card Status; Second Grade Homework Sheet March 15-19 year erased; Professional Promotion; Mississippi Code of 1972 As Amended Sec. 39-9-59;Notice of Personnel action Date 7/11/06; Dr. Daisy M. LaCour Educator AAAA License; Dr. Daisy M. LaCour 2006 Contact of Employment with Mississippi Public School District for Assistant Superintendent, Principal and Certified Employee; Dr. Daisy M. LaCour Application for Employment Certified Educational Staff; Dr. Daisy M. LaCour Child Abuse Registry Check; Dr. Daisy M, LaCour letter form the Department of Education Test Scores; Dr. Dais M. LaCour Resume; Dr. Daisy M. LaCour Verification of Teaching Experience Rust College; Dr. Frances Elizabeth Coe recommendation Letter for Dr. Daisy M. LaCour; Dr. Daisy M. LaCour Transcript showing an Doctorate of Education Degree 1998 from Jackson State University; Dr. Daisy M. LaCour Transcript showing an Master of Science Degree 1972 from Jackson State University; Dr. Daisy M. LaCour Transcript showing a B.S. Degree 1971 from Spelman College; Dr. Daisy M. LaCour American Fidelity Assurance Company Application; Central Surgical Association, PLLC Back to Work letter form Dr. Daisy M. LaCour Emergency Gall

Bladder Surgery; Claiborne County remarks to Mississippi Department of Employment Security "Discharged due to her failure to maintain proper discipline and because her conduct and continue presence constituted a disruptive influence on the learning environment; Letter Dated November 7, 2008 to Dr. Daisy M. LaCour concerning Mr. Stephen Hall hand receipts for all equipment/instruments, etc; Letter dated July 10, 2006 from Dr. Annie Kilcrease to Claiborne County Board recommending Dr Daisy M. LaCour as principal; Dr. Daisy M. LaCour New Employee Package; School Improvement Plan For Port Gibson High School Dated January 3, 2007 Discipline Committee members Mr. Donald Reeve, Chair, Mrs. Clarena Jones, Mr. Terrance Watson, Mr. Ray Gillespie and Ms Shirley Lewis; District Wide Grade Level/Departmental Meeting Schedule 006-07; Port Gibson High School Improvement Plan Date October 24, 2009; 182 pages of Disciplinary Referral; Misconduct cases report by Terrance Watson, Chief of Security document contain 32 pages; Notice of Service of Pre-Discovery Disclosures of Core

Information by Defendants: Memo dated February 2, 2007, Bobby Lowe, Lucinda Jones address to Whom It May Concern; Letter Dated

September 26, 2006 to Dr. Daisy M. LaCour from Dr. Annie Kilcrease; Letter Dated September 30, 2006 to Dr. Daisy M. LaCour from Dr. Annie Kilcrease; Letter Dated September 26, 2006 to Dr. Daisy M. LaCour from Dr Annie Kilcrease; Letter Dated October 9, 2006 to Dr. Daisy M. LaCour from Dr Annie Kilcrease; Letter Dated October 10, 2006 to Dr. Daisy M. LaCour from Dr Annie Kilcrease; Letter Dated February 6, 2007 to Dr. Daisy M. LaCour from Dr Annie Kilcrease; Letter Dated March 6, 2007 to Dr. Daisy M. LaCour from Dr Annie Kilcrease; 2 Letter Dated March 9, 2007 to Dr. Daisy M. LaCour from Dr Annie Kilcrease; Letter Dated April 5, 2007 to Dr. Daisy M. LaCour from Dr Annie Kilcrease; Letter Dated October 31, 2006 to Dr. Annie Kilcrease author unknown; 108 Pages documents dated back to 1987 on Mr. Nathaniel Martin, Principal (2005-06) Port Gibson High School there is document indicated that Mr. Nathaniel Martin is a AAA 486 Mississippi Department of Education Certified Administrator (See document Mississippi Teacher Certificate License # 75647 Exhibit 22); There was an employment Contract for Mr. Nathaniel Martin (See Contract Document Exhibit 23) There was a Receipt and Release document (See Exhibit 24); 144 pages SOUTHGROUP INSRANCE

SERVICE – Claiborne County School District Policy; Letter Dated January 31, 2007 to Dr. Daisy M. LaCour from Natisha Danett Moore; Memo dated September 27, 2006 to Dr. Annie Kilcrease from Mrs. Hattie Jones; Notes of Deloris Frye's Mother not date; Date 9/27/06 notes Dr. Annie Kilcrease of conference with Mr. Gillespie, Mrs. Teressa Wilson; Mr. Terrance Watson and Dr. Daisy M. LaCour; Date 9/27/06 notes Dr. Annie Kilcrease conference with Mrs. Hattie Jones and Dr. Daisy M. LaCour; Date 11/3/06 notes Dr. Annie Kilcrease conference with Dr. Daisy M. LaCour; Date 8/31/06 notes Dr. Annie Kilcrease conference With Mrs. Frye; Date 2/13/07 notes Dr. Annie Kilcrease conference with Dr. LaCour, Mr. Gillespie, Mr. Reeves and Ira Thomas; Date 8/29/06 notes Dr. Annie Kilcrease conversation with Mr. Anthony Kelly; Date 9/18/06 notes Dr. Annie Kilcrease conference with Mrs. Carolyn Moore, Mackelton Moore, Geneva Moore, Dr. Daisy M. LaCour; Date 9/26/06 notes Dr. Annie Kilcrease conference with Mrs. Hattie Jones; Date 9/26/06 notes Dr. Annie Kilcrease telephone conference Michelle Banks; Memo Date 9/19/2006 memo to Ms Ruth Buck from Dr. Daisy M. LaCour; 9/20/2006 memo from Ms Ruth Buck to Dr. Daisy M. LaCour; 9/21/2006 memo from Dr. Galya Smith to

Dr. Daisy M. LaCour; Letter Dated February 14, 2007 to Mr. Stephen Hall; Receipt of Hand Delivered Mail to Mr. Steven Hall: Letter Dated September 11, 2006 to Mr. Steven Hall from Dr. Annie Kilcrease; March 30, 2007 Certified Mail receipt and Letter to Mrs. Hattie Jones from Dr. Annie Kilcrease; Letter dated 3/27/07 to Mrs. Jacqueline Bradley form Dr. Annie Kilcrease; Letter Dated March 27, 2007 to Ms Shawanna Scott from Dr. Annie Kilcrease; Letter Dated March 27, 2007 to Ms Tilden Young from Dr. Annie Kilcrease; Memo Dated July 2007 to Mr. Harry Brown from Ms Ruth Buck; Letter Dated April 25, 2006 to Dr. Annie Kilcrease from Ms Carolyn Hall; Letter Dated April 14, 2007 to Dr Annie Kilcrease from Mrs. Glendora Alexander-Muhammad (See Exhibit 25) Also see new article that was Published (Exhibit 26); Memo Dated September 1, 2009 memo to Dr. Annie Kilcrease from Dr. Daisy M. LaCour; 38 pages Notice of Personal action (See Exhibit 26) of Dr. Spurgeon A. Banyard (Male) Principal of Prot Gibson High School 2007-08 had a salary of $78,500.00 (See contract 2007-08 Exhibit 27 and Voided contract 2006-07 Exhibit 28) the principal who was hired directly after Dr. Daisy M. LaCour, also had a office of furniture allowance well over $10,000.00 Dr. Daisy M. LaCour was only

given $2,500.00, Tax form, Mississippi Department of Education Administrator License AAA 486 license #167657 (See License Exhibit 29), June 2008 Nina Richmond V. Holmes County School District Subpoena in Civil Case , See Notification; (See Subpoena in Civil Action Exhibit 30); Memo Dated August 15, 2007 to Dr. Spurgeon Banyard from Mrs. Wanda Fleming; Letter Dated April 28, 2006 to Certified Staff from Dr. Annie Kilcrease; 2 copies of Letter Dated December 17, 2007 to Dr. Spurgeon Banyard from Dr. Annie Kilcrease; Letter Dated December 17, 2007 to Dr. Spurgeon Banyard from Janice Cook; February 9, 2009 "ISS" Claiborne County Public School from Mr. Bobby Lowe; October 25, 2006 Memo to Dr. Annie Kilcrease from Dr. Daisy M. LaCour; October 27, 2006 memo to Dr. Daisy M. LaCour from Dr. Daisy M. LaCour; October 12, 2006 Memo to Mr. Atkins form Dr. Annie Kilcrease; October 12, 2006 pages hand written notes of meeting with Mr. Atkins; 60 pages CCPS Allegations of Solicitation Terrance W. Watson, Chief Investigator; 1-24-07CC Alternative Center 3 Disciplinary Referral; CCPS Behavior Observation STUDENT; Pre-Discovery Disclosures of Core Information by Defendants (see Exhibit 5).

71. The only information that was offer in the Pre-Discovery Discovery ofCore Information by Defendants (See Exhibit 5); Defendants

Responses to Plaintiff's First Set of Request for Production of Documents and Things Propounded to Defendant (See Exhibit 6) and Defendants' Responses to Plaintiff's First Set of Interrogatories Propounded to Defendants (See Exhibit 7) was the Mississippi Department of Education Administrator Certification License and employment contract of Mr. Nathaniel Martine Port Gibson High School Principal (2005-06) and Dr. Spurgeon Banyard Port Gibson High School Principal (2007-08)

72. It is a fact that Defendant's counsel Attorney Stephanie Edgar contacted and did not identify herself properly, etc. to another one of my witness, Dr. JoAnn Smith (case is pending EEOC decision) who also has alleged a violation of Title VII of the Civil Rights Act of 1964, as amended in that Plaintiff was discriminated against because of her sex, female

73. Dr. Gayla Banks Smith (female) is another one of my witnesses who was contacted by Defendants counsel and did not identified her self as representing the Defendants. Dr. Smith has a Case in the Circuit Court of Claiborne County, Mississippi - that states Defendants (Claiborne County Schools and The Claiborne County School Board cause to terminate said contract and refused to afford hearing on the Matter. (See Complaint file March 17, 2008 Exhibit 31), (See Summons Exhibit 32); (See Letter 3/29/2008 from Sanders Law Firm

Summon and Proof of Service Exhibit 33); (4/18/08 See Letter from Sanders Law Firm Motion to Dismiss Exhibit 34); (See letter 4/21/08 from Shannon Law Firm, PLLC Notice of Service of Discovery and Response to Motion to Dismiss filed April 23, 2008 Exhibit 35); (See letter 9/11/2008 from Shannon Law Firm, PLLC Notice of Hearing and Motion to Compel Defendants Responses to Plaintiffs First set of Interrogatories and Request for Production of Documents Exhibit 36); See Letter 9/26/08 Sanders Law Firm Notice of Service of Discovery Exhibit 37); (See 3/26/09 Shannon Law Firm, PLLC correspondence to Dr. Gayla Banks Smith Exhibit 38); (See April 16, 2009 Plaintiff Motion to Compel Defendant's Responses to Plaintiff Exhibit 39); (May 4, 2009 Order Granting Plaintiff's Motion to Compel First set of Interrogatories and Request for Production of Documents Exhibit 40); (May 4, 2009 Order Setting Trail and Requiring Scheduling Order Exhibit 41)

74. Dr. Gayla Banks Smith is just one of the examples of complaint filed dealing with a female being terminate and not being paid the remaining money from her contract. All certified employees area entitle to a due process hearing when they request one within the time fame of that district. No school District can deny a certified employee a hearing. This Complaint was among the 4,003 documents .

that were present to defendants counsel.

75. It is a fact with just one Expert Witnesses who is the investigator with EEOC; along with Dr. Daisy M. LaCour documents can and will show that Dr. Daisy M. LaCour was discriminated against in violation of Title VII of the Civil Rights Act of 964, as amended, because of her sex, female, in that she was subjected to disparate treatment and terminated from her Principal position by Superintendent as well as other females who work and have worked within the Claiborne County School District.

AUTHORITES AND ARGUMENT

On August 17, 2009, fourteen days before discovery will end that counsel filed Defendants' Combined Motion for Summary Judgment and Memorandum of Authorities in support after they had the opportunity to examine and copy over four thousand plus pages of documents that included Plaintiff trial notes. (See Plaintiff's trail notes Exhibit 42)

Defendants nor their counsel has not fully abide to pursuant to Rules 26, 34, and 37 of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Southern District of Mississippi nor the case management order signed by Magistrate Judge John M. Roper on February 17, 2009 stating that all discoveries shall be

completed on or before September 1, 2009.

The U. S. Equal Employment Opportunity Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 2000e-2 or 2000e-3 of this title *[section 703 or 704]*.

On September 24, 2008, U. S. Equal Employment Opportunity Commission decisions that "All requirements for coverage are met" Charging Party (Dr. Daisy M. LaCour) alleged that she was discriminated against in violation of Title VII of the Civil Rights Act of 964, as amended, because of her sex, female, in that she was subjected to disparate treatment and terminated from her Principal position by Superintendent (female). (See, copy of U.S. Employment Opportunity Commission decisions dated September 24, 2008 attached hereto as Exhibit F).

Examination of the evidence by U. S. Equal Employment Opportunity Commission reveals that Charging Party (Dr. Daisy M. LaCour) was a High School Principal for school year 2006-07, after a successful male candidate declined this position. (It should be noted that Charging Party was hired as an Assistant Principal to the successful male candidate who decline the Principal position) Evidence revealed that Charging Party's predecessor was a male and her successor is a male. Evidence further revealed that Assistant

Principals were hired to assist both the male predecessor and the male successor; however, Charging Party did not have an Assistant Principal to assist her.

Examination of the evidence by U. S. Equal Employment Opportunity Commission revealed that a male administrative assistant was hired and assigned to the high school (Charging Party's school) to handle the discipline; however, Charging Party was terminated from her Principal position due to "her inability to deal with the escalating discipline problem." This male administrative assistant was not disciplined or terminated for the disciplinary problems at this high school.

Examination of the evidence by U. S. Equal Employment Opportunity Commission further revealed that upon terminating Charging Party, Respondent hired a male Principal and two Assistant Principals for the school year 2007-08. Respondent stated that their rationale for that is that the high school had gotten out of control as it relates to discipline and student academic achievement during the 2006-2007 school year under Charging Party.

Examination of the evidence by U. S. Equal Employment Opportunity Commission further showed that Charging Party was treated less favorable than the male high school Principals in that she was not afforded

the same support/opportunity as the male Principals, to achieve success. The reasons for terminating Charging Party do not withstand scrutiny. Based on the analysis and the record as a whole. Evidence obtained during the U. S. Equal Employment Opportunity Commission gave a determination that established violation of Title VII of the Civil Rights Act of 1964, as amended in that Charging Party was discriminated against because of her sex, female.

To make the identified victims whole and to provide corrective and preventive relief these remedies may include, as appropriate, an agreement by the respondent to not engage in unlawful employment practices, placement of identified victims in position they would have held but not for discriminatory actions, back pay, restoration of lost benefits, injunctive relief, compensatory and or punitive damages, and notice to employees of the violation and resolution of claim.

Dr. Daisy M. LaCour works with students -children. Employers do background checks to insure that no abusive actions have been done towards children or anyone. Dr. Daisy M. LaCour has been branded with this stigma that "her presence was a direct threat to the safety of the students at Port Gibson High School" and this has made Dr. Daisy M. LaCour unemployable. This action by the Superintendent, Annie Kilcrease to place her in a

state of mental anguish, loss of friends, loss of respect in the community, loss of reputation, loss of consortium, pain and suffering. This act was so horrible and offensive by showed no respect and to perform their duties that they were elected to do and that the Claiborne County School District and Dr. Annie Kilcrease, Superintendent are not above following federal and state laws when hiring and firing female employees. Dr. Daisy M. LaCour has applied for over a **TOTAL OF 225 JOBS** beginning April 5, 2007 until today June 2, 2009 with supporting documents. Dr. Daisy M. LaCour begin working on Monday, August 11, 2009 on a job that pays $38.117.00. This is the only full time employment that has been offer Dr. Daisy M. LaCour. Dr. Daisy M. LaCour has been under so much stress that it has affected her husband Mr. George L. Greene. He had his first heart attack in 2002 he had three (3) drug-eluding coronary artery stents implant. My husband had a hear attack on December 6, 2008 five days after we went to court in Port Gibson, Mississippi on December 11, 2008 he had four (4) drug-eluding coronary artery stents implant. Dr. LaCour's husband has been so stressed out about their financial situation and Dr. LaCour not being

able to get employment that her husband has had four heart attacks giving him a total of eleven stents. Dr. LaCour medical files along with 1,003 pages of document concerning the health of husband were provided to defendants Counsel.

4/11/08 (1) drug-eluding coronary artery stent implant

7/17/08 (3) drug-eluding coronary artery stents implant

12/11/08 (4) drug-eluding coronary artery stents implant

12/20/08 Heart Attack

Dr. Daisy M. LaCour had to borrow money to pay her house notes and to pay bills because of employment status and her not receiving the money that is due her by statute.

Claiborne County School District and Dr. Annie Kilcrease, Superintendent should compensate Dr. Daisy LaCour, Plaintiff for, among other things, lost wages, lost profits (future earnings), Medical bills (current & future), property damage (money had to borrow to keep her house from being foreclosed), mental anguish, loss of friends, loss of respect in the community, not being able to get employment due to receiving all sorts of negative comments, loss of reputation (that she has built and for sixty years without any

negative actions or comments being associate to her good Name), loss and respect among her professional peers, loss of consortium, pain and suffering. The purpose of compensatory damages is to put her back in the position that Dr. Daisy M. LaCour was in prior to the injury caused by DEFENDANT , Claiborne County School District and Dr. Annie Kilcrease, Superintendent. Insurance companies sometimes call compensatory damages "special damages." (See Dr. Annycee R. Campbell, M.D, Letter Exhibit 43; (See Region 8 Mental Health Intake/Assessment Exhibit 44); (See Region 8 Mental Health Center Psychiatric Evaluation Exhibit 45); (See Region 8 Mental Health Center Psychiatric Follow-Up Medication Evaluation Exhibit 46); (See Letter from Dr. Janice Duncan Exhibit 47); See Letter from Dr. Sirrinthia Watson Exhibit 48); (See letter form Letter from Nichola Sta-En Young, Licensed Nurse Exhibit 49)

CONCLUSION

It is very apparent that neither defendants nor its counsels (See Affidavit of Dr. Annie Kilcrease, Superintendent Exhibit 50) understand that this lawsuit is a violation of Title VII of the Civil Rights Act of 1964, as amended in that Plaintiff was discriminated against because of her sex, female and contractual agreement. Discipline is not an issue in this lawsuit. The same materials Defendant presented

to this court was present to U. S. Equal Employment Opportunity Commission.

On September 24, 2008, U. S. Equal Employment Opportunity Commission decisions that "All requirements for coverage are met" Charging Party (Dr. Daisy M. LaCour) alleged that she was discriminated against in violation of Title VII of the Civil Rights Act of 964, as amended, because of her sex, female, in that she was subjected to disparate treatment and terminated from her Principal position by Superintendent (female).

Defendants did not show this court through Pre-Discovery Discovery of Core Information by Defendants (See Exhibit 5); Defendants' Responses to Plaintiff's First Set of Request for Production of Documents and Things Propounded to Defendant (See Exhibit 6) and Defendants' Responses to Plaintiff's First Set of Interrogatories Propounded to Defendants (See Exhibit 7) nor U. S. Equal Employment Opportunity Commission that they did not discriminated against Dr. Daisy M. LaCour in violation of Title VII of the Civil Rights Act of 964, as amended, because of her sex, female. There has not been any evidence or disagreement with defendants with U. S. Equal Employment Opportunity Commission findings.

WHEREFORE PREMISES CONSIDERED, Plaintiff respectfully request that this

Court enter an Order granting summary judgment in favor of Dr. Daisy M. LaCour in the total amount of One Million, Six Hundred and sixty-five, and five hundred and eight Dollars and twenty eight cents. ($1,665,508.28.) for the following:

Claiborne County School District and Dr. Annie Kilcrease, Superintendent to pay a back salary from date of termination until the filling of this lawsuit of sum $194,082.88 which is a total of sixty-eight (68) biweekly pay checks times $2,854.16 each pay period from April 5, 2007 until the filing of this motion for this Court to enter an Order granting summary judgment..

Claiborne County School District and Dr. Annie Kilcrease, Superintendent to pay all health care benefits that Dr. Daisy M. LaCour was entitle to and those insurances that Dr. Daisy M. LaCour elected to pay (these are insurance that Plaintiff pay during her employment) for the next six years of $60,000.00.

Claiborne County School District and Dr. Annie Kilcrease, Superintendent to pay her salary of $68,500.00 a year for the next six years of $411,000.00

County School District and Dr. Annie Kilcrease, Superintendent to pay for pain and suffering in the amount of $500,000.00

Dr. Daisy M. LaCour has been under so much stress that she now has a blood pressure problem and is on blood pressure medication. Dr. Daisy M. LaCour has been informed that she will be taking this medication for the remainder of her life. Dr. Daisy M. LaCour blood pressure has been as high as 197/220, which is stroke level. Dr. LaCour now has an uncontrollable blood pressure that must be monitored. The abusive treatment that Dr. Daisy M. LaCour has received had made her physically ill.

County School District and Dr. Annie Kilcrease, Superintendent to pay for punitive damages of $250,000.00.

County School District and Dr. Annie Kilcrease, Superintendent to pay for Compensatory damages of $250,000.00. Dr. Daisy M. LaCour works with students/children. Employers do background checks to insure that no abusive actions have been done towards children or anyone. Dr. Daisy M. LaCour has been branded with this stigma that "her presence was a direct threat to the safety of the students at Port Gibson High School" and this has made Dr. Daisy M. LaCour unemployable in her professional area. This action by the Superintendent, Annie Kilcrease to place her in a state of mental anguish, loss of friends,

loss of respect in the community, loss of reputation, loss of consortium, pain and suffering. This act was so horrible and offensive by showing no respect and to perform their duties that they were elected to do and that the Claiborne County School District and Dr. Annie Kilcrease, Superintendent are not above following federal and state law when they are in violation of Title VII of the Civil Rights Act of 1964, as amended not to discriminated against sex, female.

Dr. Daisy M. LaCour has to borrow money to pay her house notes and to pay bills because of employment status and her not receiving the money that is due her by statute.

Claiborne County School District and Dr. Annie Kilcrease, Superintendent should compensate Dr. Daisy LaCour, Plaintiff for, among other things, lost wages, lost profits (future earnings), Medical bills (current & future), property damage (money had to borrow to keep her house from being foreclosed), mental anguish, loss of friends, loss of respect in the community, not being able to get employment due to receiving all sorts of negative comments, loss of reputation (that she has built and for sixty (60) years without any negative actions or comments being associate to her good Name), loss and respect among her professional peers, loss of consortium, pain and suffering The purpose of compensatory damages is to put her

back in the position that Dr. Daisy M. LaCour was in prior to the injury caused by DEFENDANTS, Claiborne County School District and Dr. Annie Kilcrease, Superintendent. Insurance companies sometimes call compensatory damages "special damages." Dr. Daisy M. LaCour stated working on a job this Monday, August 17, 2009 with a salary of $38,117.00 this is the only job that Dr. Daisy M. LaCour has been offered. I am seeking the physical evidence that will prove that Claiborne County School District and Dr. Annie Kilcrease, Superintendent has give me negative verbal as well as written references.

Also, that Plaintiff's be granted a consultant fees of $10,400.00 for the 104 hours @ $100.00/hr that was put into the work of bring forth this action.

Respectfully submitted, this the 20th day of August, 2009

s/Daisy M. LaCour

NAME, ADDRESS AND PHONE NUMBER OF PLAINTIFF
Dr. Daisy M. LaCour
257 Windy Hill Drive
Flora, Mississippi 39071
(601) 879-8983 Home,
(601) 826.3208 Cell,
dlacour605@aol.com

(docket entry no 57)

CLAIBORNE COUNTY SCHOOL
DISTRICT
STUDENT HANDBOOK
2006-2007

PAGE J-38, J-39, J-41

FIGHTING **JCDI** J-38

A fight is defined as an exchange of physical blows, hitting, slapping pushing or shoving. The penalty for fighting is three (3) to ten (10) days out of school suspension or recommendation for expulsion for the first offense. Students who hit other students and there in no retaliation will be subject to five (5) days suspension or recommendation for expulsion. Students who do not fight back may not be subject to punishment. Students should report the incident immediately to an administrator or teacher. Students should not take matter into their own hands but should allow an **administrator** to handle the situation.

In the event a fight breaks out, students are advised to move away from the area of the disturbance, attend to their own business, and not get in the way of **administrators** or **teachers** who are trying to deal with the situation. Standing around, standing on tables, standing in aisles so as to hinder school violation of the

no fight policy may constitute the offense "party to an affray" and disciplinary action may result . In most severe cases, prosecution may be an alternative.

Student who instigate fights but are not actively involved (this is students who carry rumors, put other up to fighting, carrying information back and forth between other individuals who subsequently fight) submit themselves to the same penalties as those who are involved in the fight. Students who intimidated or harassed y anther student should report that to a teacher or an administrator. **FIGHTING WILL NOT BE TOLERATED** on district's campuses, on the school bus, or ant any school-sanction event.

Fighting on Campus

(See Discipline)

Student caught fighting on campus should be escorted to the office immediately and referred to an **administrator.** Teacher should be alert for "near fight" situation and either ease the situation or escort the potential fighter to the office. Most fights can be avoid if proper, timely action occurs by an educator. The responsibility to supervise students exist for the school day. Any observable negative behavior

should be addressed by any teacher in the immediate area. J-39

STUDENT DISCIPLE JD

The Board recognizes that discipline is a primary responsibility of the teaches and that teachers should employ methods which are appropriate and effective.

District policies governing student discipline are adopted by the School Board and published annually in student handbooks as official policy statements of the School District.

The Board of Education of the School District recognizes the need for an organized disciplinary system which supports teachers efforts to teach and which addresses the growth of positive student activities and behaviors,

The administration of the school district is charged with the development of a defined systematic approach to school discipline to e recommended to the Board of Education.

Assertive Discipline Plan

District policies governing the assertive discipline program for K-12 are adopted by the School Board and published annually in students handbooks as official policy statement of the School District.

The basic objectives of discipline within the school may be described as threefold"

1. To establish conditions under which no student will be permitted to prevent any teacher form teaching or any student from hearing.
2. To establish and maintain study conditions that are conducive to learning.
3. To develop, on the part of each student, the habits and skill that make him/her self-directive to help him/her realize that he/she is responsible for his/her own conduct

Teachers and administrators shall be responsible for creating and implementing programs favorable to development of self-discipline and self-direction. School personnel shall plan carefully to ensure active interest in class work and total school program, including the teaching of good behavior and accepted goals of the school. The use of all personnel provided by the school shall be maximized to assist in the development of sound personal value judgment, the teaching of school and civic responsibilities, and human relations.

Teachers and administrators are authorized to take just and reasonable measures to establish effective school discipline and to

develop in students self-disciplined, emotionally mature behavior. The authority to control students conduct shall extend to all activities of the school including, all games and performances of athletic teams and other school groups.

Discipline should have the qualities of understanding, fairness, firmness, and consistency. Consideration should be given to the cause, mature, condition, and frequency of misconduct. Teachers should manage their own discipline problems if at all possible. Discipline should be use by each teacher as a means of improving the fundamentals of self-control, good work habits, and sound citizenship in the student and the group. Each infraction serious enough to be recognized one time should be recognized each time it occurs on part of any student.

Prescribing Disciplinary Measures J-40

When a teacher sends student to the principal's office for disciplinary reasons, the decision regarding punishing the child sent rest solely on the administration. Teachers will not prescribe to the administration what is to be done concerning disciplinary measures after they have attempted to solve the problem. This does not meant that a teacher cannot

make suggestions – but in no case shall the teacher tell the student that he/she is going to be paddled, suspended, or disciplined in other ways. It shall be the **administrator's** responsibility to determine appropriate disciplinary measures as outline in the assertive discipline plan of the school district and in accordance with policies and procedures established by the Board of Education of the School District.

Detention

When a student (grades K-12) is required to report to detention before or after school for disciplinary reasons, in accordance with the assertive discipline plan, that student must do so unless arrangements are made with the teacher or principal Students will be given a minimum one day's notice prior to detention. Failure to report for detention as scheduled will result in additional disciplinary action. (Also see policy regarding Tardies in student handbooks,)

Student Detention for Discipline or Make-Up During School Day K-6

Student is grades K-6 may be keep from participating in physical education, music, or library activities for either disciplinary reasons or make-up work, so long as the teacher keeps

the student during the entire period of the activity and he/she is under constant teacher supervision. The Student may not be kept from participation in these activities for no more than three (3) consecutive days because of discipline or makeup.

Corporal Punishment

Corporal punishment is an option in the disciplinary program of the District and will be administered in accordance with the policy of the School District.

The District has established under with a parent/legal guardian will indicate whether he/she gives permission for his/her child to receive corporal punishment as appropriate under the assertive discipline plan outline in the student handbook and in accordance with district policy. Alternative disciplinary action will be required for students whose parents/legal guardians have not checked and signed the required Corporal Punishment Permission Statement.

Disciplinary action in lieu of or in addition to corporal punishment may include suspension from school referral to social services officials, or other appropriate disciplinary measures, including a requirement that the parent or legal guardian attend classes with the child or

attend parenting sessions provided by the school district to help parents or guardians develop the skill necessary to facilitate the child's continuing enrollment in regular school program and successful participation in classroom activities.

The Board of Education will permit use of corporal punishment only when it is considered to be an effective and suitable means of discipline. If an offense is serious enough to warrant corporal punishment, **IT MUST BE ADMINISTRED IN THE OFFICE IN THER PRESENCE OF ANOTHER CERTIFIED STAFF MEMBER.** There should be no doubt in the mind of the student as to the seriousness of the offense for which he/she is to be punished nor as to the punishment deserved. The teacher or principal, when administering corporal punishment, should use an instrument which will produce no physical injury to the child, and it must not be applied on any part of the body above the waist or below the knees. Striking on he shins, knuckles, palms with ruler or slapping about the face and head with the hand (either open or closed) or with any instrument is expressly forbidden. It must be remembered that all punishment is to be administered at a time and under conditions

when it is not calculated to produce a rebellious or vengeful spirit in the student. A disciple report must be filled out prior to the punishment and must be signed by the administering administrator or teacher and the witness; it must be submitted to the principal's office..

Parent Care J-41

In order to establish effective school discipline, principals shall have the authority to place students in the care of their parents for the remainder of the school day. Such placement shall not be construed as suspension.

Suspension

Suspension is a forfeiture of participation in regularly scheduled school activities for no more than ten (10) school days, including all extracurricular activities. Students may be assigned to either in-school or out of school suspension. In all cases, parent/legal guardian must come to the school for a personal conference with the designated school administrator before the student will be allowed to return to classes (no exceptions)

In Compliance with federal guidelines, special education students should not be suspended for more than three (3) days, and all other district and federal requirements in regard to such

Suspensions shall be followed.

School principals shall have the authority to suspend students form school attendance for unacceptable behavior. Walking to and from school, being transported by school bus, and all school-sponsored activities regardless of time or place are considered as extensions of the school day and shall be governed by these same procedures.

Any suspension must be preceded by appearance of the student before the principal or his/her designee at the time the pupil will be informed of the violation and the basis of the accusation. The principal shall investigate the situation causing the violation, to the extend possible and reasonable, including but not limited to interviewing other students and faculty members who may have witnessed the infraction. The student shall be allowed to have other individuals called in who would possible support his/her side of the story and place such conduct in what he/she deems to be the proper context.

In all instances of suspension, parents shall be notified by telephone if they can be reached with reasonable effort, and by letter from the principal with a copy of the suspension notice to be given to the student. During any period

of the suspension, the student shall not be permitted to be on school grounds or attend any school-related activity, including band, athletics, chorus, strings, etc.

Serial Suspension

The administration needs to be aware of the necessity to avoid serial suspension based upon assertive discipline program of the school district.

In-School Suspension

In-school suspension may be offered as a possible alternative to out-of-school suspension based upon the assertive discipline program of the school district.

Out-of-School Suspension

Out-of-school suspension will be applied to student s when their behavior warrants removal from the school based upon assertive discipline program of the school district.

Expulsion

Expulsion is the total exclusion of student form the participation in or attendance at any school-related activity. The Board o Education shall be the sole authority to expel a student from school. A student who has been expelled by the Board of Education from the District

Must apply in writing to the Board of Education for possible readmission. Requests for readmission must be sent to the Superintendent of Education.